

**Evaluation Findings  
for the  
American Samoa Coastal Management Program  
from  
March 1997 through July 2000**

**December 2000**



Office of Ocean and Coastal Resource Management  
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## EXECUTIVE SUMMARY

### A. OVERVIEW

Section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended, requires NOAA's Office of Ocean and Coastal Resource Management (OCRM) to conduct periodic evaluations of coastal management program implementation. This review examined how the Territory of American Samoa has implemented and enforced the American Samoa Coastal Management Program (ASCMP), addressed the coastal management needs identified in section 303(2)(A) through (K) of the CZMA, and adhered to the terms and conditions of the NOAA financial assistance awards the ASCMP received between April 1997 through July 2000.

### B. ACCOMPLISHMENTS

The Evaluation Team documented a number of areas where the ASCMP improved its management of American Samoa's coastal resources. These include:

- 1. Coral Reef Task Force.** ASCMP activities in support of the Coral Reef Task Force stand as a singular achievement during the review period. Strong support from the highest levels of Territorial government has pushed American Samoa into a leadership role among island programs in addressing coral reef issues and its own local advisory group has developed a 5-year plan for coral reef management in the Territory. The Governor of the Territory is the only such official from insular coastal programs to attend and actively participate in all Coral Reef Task Force meetings during the past several years. Through such active participation and the work of the advisory group, American Samoa has worked closely with NOAA and the U.S. Coast Guard to remove fishing boats stranded on coral reefs after hurricane events and to restore the reefs. It has also promulgated a "live rock law" prohibiting the taking of any coral and completed a population study which documents the increasing island population as an impact to coastal resources including coral reefs.
- 2. Work with the Villages - Community Based Wetlands Management.** The ASCMP has worked to develop community based wetlands protection in keeping with the traditional approach to land use within Samoan culture. This effort was not without some difficulty but recent initiatives indicate that the work will ultimately result in enhanced protection of American Samoa's valuable wetland resources. In April 1999, a workshop for all village liaisons and facilitators was held to introduce the new wetlands specialist and rejuvenate the program. The workshop was well attended and the villages expressed much interest in the program. Most recently a poster interpreting the wetlands of Aunu'u was

completed and presented to the island leadership.

3. **Training.** As a result of a training program for permit enforcement personnel developed with the University of Hawaii Sea Grant Program, permit monitoring has improved during the review period. The training program, which typically occurs in Hawaii, provides a formal education experience with field trips to specific permit sites at issue or with educational value and a period of time working with the City of Honolulu permit officers.
4. **Outreach Activities.** The ASCMP has developed a comprehensive slate of outreach activities which keep information regarding coastal resource management issues before the public. All elements of the program provide some outreach, be it the brochure describing Land Use Planning Actions, the “For the Good of All” video explaining why specific requirements must be met, or the village wetlands program informing the public of the value of wetland preservation. The outreach program uses Americorp volunteers to augment staff in carrying out the various activities.
5. **Watershed Restoration Strategies.** During the review period the ASCMP provided technical support on the Watershed Protection Plan for all watersheds in American Samoa. The plan includes an inventory of the natural resources within each watershed, an assessment of the challenges for environmental protection and a matrix of recommended management tools and actions. Five watersheds were prioritized by American Samoa Environmental Protection Agency as not meeting water quality standards: the villages of Nu’uulu, Tafuna, Leone, Pago Pago, and Fagaalu. These watersheds are the most populated and are under the greatest threat of nonpoint source pollution as American Samoa’s population continues to grow.
6. **Enforcement Tracking System.** In January of 1999, ASCMP began to look methods for improving its violation tracking and monitoring, and started to implement some measures to improve its overall enforcement and monitoring capability. ASCMP developed and implemented a numbering system for all Stop Orders. Stop Orders are the primary tool for compliance requiring all work to cease on projects without Land Use Permits or found to be in non-compliance with conditions of a Land Use Permit and for the violator to appear before the Project Notification Review System (PNRS) Board to resolve the matter. At that time, the violator would fill out a Land Use Permit Application, initiating the Consolidated Enforcement and Monitoring Tracking System Network, and the project would then be reviewed by all agencies. Agency recommendations would be provided to the PNRS Board who would make a final determination.
7. **Population Document.** In May 2000, the Governor’s Task Force on Population

Growth published the report *Impacts of Rapid Population Growth in American Samoa: A Call for Action*. The document was prepared to stimulate discussion regarding a booming population growth driven by immigration and family size. The document addresses impacts on culture, economy, infrastructure and land use, education, social and medical services, and environment, including coral reef habitat.

8. **Attorney Support.** One of the ongoing issues of ASCMP implementation has been the lack of litigation support to address violations of permits and illegal actions. In conjunction with ASEPA and Department of Marine and Wildlife Resources, ASCMP provides funding to the Office of the Attorney General to continue the services of the environmental attorney, who provides legal advice for the Project Notification and Review System Board, interprets ASCMP rules, resolves violations, and provides support on other matters where legal representation is required. The new attorney indicated a willingness to litigate citations. In concert with this, ASCMP has been authorized to employ itself an attorney who would be an Assistant Attorney General, capable of litigation. The result will be the full time service of two attorneys to environmental litigation.
9. **Education.** The education program of the ASCMP embraces the schools, the public, private institutions and the Church. Outreach activities have a strong educational component such as the summer children's camps. The Art and Tide calendar ties the schools, whose pupils produce the artwork, with the private sector, who sponsor a calendar page and help fund the effort, with the ASCMP partnering agencies who host the awards ceremony. The religious consciousness project brought the religious community to an awareness of the importance of coastal stewardship and the American Samoa Symposium provides top caliber science students with an opportunity to compete with Hawaii's science students.
10. **New "User Friendly" Program Document.** The ASCMP has produced a "user friendly" program document Changing Environmental Behavior American Samoa Coastal Management Program in Review 1980 - 1999 to explain the program in layman's terms. It is intended to put the issues of balancing a community's desires with changing economic, technological, and environmental realities. Drawing from the living culture which nurtures and sustains the land and sea as the land and sea nurtures the culture, the document addresses the changes which have taken place in American Samoa over the past 50 years; greater change than had occurred in the previous 2,950 years.

## C. SUMMARY OF RECOMMENDATIONS

In addition to the significant accomplishments described above, OCRM has identified

areas where the program may be improved. These evaluation findings do not contain a recommendation which takes the form of a Necessary Action and is mandatory. Eight (8) recommendations take the form of Program Suggestions and are not mandatory.

**Finding:** To support the Consistency process, ASCMP worked with a contractor to produced the *Procedures Guide for Achieving Federal Consistency With the American Samoa Coastal Management Program*. The guide was designed to assist agencies and individuals to determine whether their proposed actions are subject to Federal consistency review and establish guidelines for applying for Federal consistency review. Based on conversations with Federal agencies during the review, it was noted that the Federal consistency process worked well for the agency seeking review, however notices of other reviews were not forthcoming.

**1. PROGRAM SUGGESTION.** ASCMP should review its Federal consistency notice process to Federal agencies, make sure that all appropriate agencies addresses are correct, and ensure that appropriate agencies are provided opportunity to comment on proposed actions and are notified of Federal consistency determinations.

**Finding:** As a witness to the maturity of the ASCMP, many agencies, both Federal and Territorial, spoke of expanded opportunities for closer coordination and cooperation. Indeed, the accomplishments cited in the preceding section attest to the positive results attained through cooperative associations with other groups. While some of the ideas proffered may take years of groundwork before reaching fruition, such as the development of an American Samoa Endangered Species Act, others, such as support for cultural surveys for low cost projects, may be more readily addressed.

**2. PROGRAM SUGGESTION.** ASCMP is encouraged to continue to seek opportunities to work with Federal and Territorial agencies toward mutual benefit in the protection of American Samoa's resources. Clearly a "good faith" effort is warranted to coordinate a more stringent mechanism to protect cultural resources.

**Finding:** In the exercise of its monitoring and enforcement authority, ASCMP's guiding principle, backed by the Governor's statement that, "no one is above the law," is that regulatory violations that cannot be resolved informally or administratively should be resolved in court. It is the Federal expectation, shared by the ASCMP and backed by the Governor's statement, that when the recommendation is made to litigate, the issue will be litigated. The selection of a new environmental Assistant Attorney General and the recruitment of another for the ASCMP should go a long way in addressing the issue of litigation. However, some issues remain. These include the effectiveness of the Stop Work Order as a deterrent, the question of whether ASCMP has authority to issue a citation with a fine, the administrative law rules which require "de novo" review of petitions, and a revision of the rules to reflect the Department of Commerce .

**3. PROGRAM SUGGESTION.** The ASCMP should work to address legal issues as they evolve. A mechanism should be explored to allow ASCMP to cite and fine violators

of permit conditions and those building without a permit. It would be preferable if the Administrative Law Judge review of cases did not have to be a “de novo” review. In any event a resolution to the “de novo” requirement for cases reviewed by the Administrative Law Judge should occur.

**Finding:** Although there are clear accomplishments in the management and enforcement of the ASCMP and in the operation of the PNRS, the need for ASCMP to monitor and enforce a body of laws and regulatory processes in the field is an ongoing necessity, requiring adequate trained staff to carry out the implementation of the program. A number of options were discussed during the site visit which include, completion of the Enforcement Manual as a “user friendly document,” increased training and certification of enforcement officers, additional staff, and litigation.

**4. PROGRAM SUGGESTION.** Working with other agencies, ASCMP should address mutual issues of enforcement such as the development of documentary evidence, shared enforcement roles and joint permitting. The Enforcement Manual should be completed and “user friendly” documents, such as a step-by-step account of the process and what must be done, documents developed. ASCMP should also proceed with all its management options, such as compensatory mitigation, fee in lieu, and mediation to assure resource protection.

**Finding:** The American Samoa Department of Finance does not have a Federal Award accounting system that is sufficient to ensure on-time payment of vendors. In the past, ASCMP Award funds have been used to pay vendors of other government agencies, without the necessary repayment of the ASCMP funds to either the ASCMP account or ASCMP vendors. This meant that consultants on Award tasks were not paid, final products were not delivered, and tasks and projects were delayed. Also, vendors were refusing to conduct business with ASCMP for fear of not being paid.

**5. PROGRAM SUGGESTION.** Until there is confidence in the Territorial accounting system the current “draw-down” of funding should be maintained. Every effort should be made to provide NOAA Grants Management training to ASCMP and Treasury staff to continually update them on grant and financial management issues.

**Finding:** Due to American Samoa civil service structure, the group of employees who perform monitoring and enforcement of ASCMP regulations are severely underpaid. As such, the ability to hire and retain qualified staff is a major problem. Under government civil service, one is hired to a category and remains there. The issue with human resources is to pay individuals in job classifications across the board, not at different levels in different departments.

**6. PROGRAM SUGGESTION.** OCRM will work with ASCMP and the Governor’s Office to seek viable solutions to the salary issue.

**Finding:** ASCMP will face several issues in the near future regarding the flood insurance

program. To its credit it has assigned an individual to work on the issues, but other resources will have to come in to play. The issue is multi-faceted. First, the concept of property insurance is contrary to the traditional way of dealing with property issues. Second, the flood insurance maps, upon which construction decisions are made, are about to change to an expanded area. Third, the policies and personnel to deal adequately with the new requirements are not in place and training is needed. Finally, cooperation among Territorial agencies (namely ASCMP, Department of Public Works and the Territorial Emergency Management Coordinating Office) will be absolutely necessary.

**7. PROGRAM SUGGESTION.** ASCMP should work to develop a coordinated approach to implementing the flood insurance program. First, with the support of the Governor's Office, ASCMP should communicate the need for American Samoa's participation in the National Flood Insurance Program (NFIP) to the other Territorial agencies and organizations responsible for implementation (department of Public Works, the Territorial Emergency Management Coordinating Office, and lenders). Second, an interagency NFIP implementation group should be established. Third, ASCMP should work closely with the Federal Emergency Management Agency to identify and secure sources of technical and financial assistance. OCRM will work with Federal agencies to enhance Federal/ASCMP coordination. Finally, monitoring, enforcement, and outreach programs for the NFIP should be developed and implemented.

**Finding:** Training has been mentioned throughout this document, both as an accomplishment of program implementation, within the discussion of findings, and in reference in recommendations. Clearly it is one of the important opportunities facing the ASCMP over the next three years. Loss of funding to the University of Hawaii (UH) program that was used to meet ASCMP's training needs, is significant.

**8. PROGRAM SUGGESTION.** At a minimum ASCMP should develop a proposal with UH that outlines training services and associated costs and submit it to the Marine Resources Pacific Consortium for funding consideration. The ASCMP should also take steps to institutionalize the training program for permit enforcement officers that lead toward some form of official certification. Further ASCMP is encouraged to work with UH to identify and develop additional training opportunities.



## I. INTRODUCTION

Section 312 of the Coastal Zone Management Act (CZMA) of 1972, as amended, requires NOAA's Office of Ocean and Coastal Resource Management (OCRM) to conduct a continuing review of the performance of States and Territories with Federally approved Coastal Management Programs. This document sets forth the evaluation findings of the Director of OCRM with respect to the American Samoa Coastal Management Program (ASCMP) for the period from March 1997 through July 2000. This document includes an Executive Summary, Program Review Procedures, Program Description, Accomplishments, Review Findings and Recommendations, and a Conclusion.

The recommendations made by this evaluation appear in **bold** type and follow the section of the findings in which the facts relative to the recommendation are discussed. The recommendations may be of two types:

(1) **Necessary Actions** address programmatic requirements of the CZMA regulations and of the ASCMP approved by NOAA, and must be carried out by the date(s) specified. There are no Necessary Actions within this document.

(2) **Program Suggestions** denote actions which OCRM believes would improve the management and operations of the Program, but which are not mandatory at this time. Program Suggestions that must be reiterated in consecutive evaluations to address continuing problems may be elevated to necessary actions.

If no specific dates are given for carrying out a Program Suggestion or a Necessary Action, the Territory is expected to have successfully implemented the Necessary Action or Program Suggestion by the time of the next section 312 evaluation. The findings contained within this document will be considered by NOAA in making future financial assistance award decisions relative to the American Samoa Coastal Management Program.

## **II. PROGRAM REVIEW PROCEDURES**

The Office of Ocean and Coastal Resource Management (OCRM) evaluation staff began review of the ASCMP in May 2000. This included an analysis of the approved ASCMP, previous and current award documents and performance reports, previous evaluation findings, correspondence relating to the ASCMP, and other relevant information. The OCRM Director's Office and the Coastal Programs Division (CPD) staff coordinated to determine the issues which would become the main focus of the evaluation. The Evaluation Team analyzed the Territory's responses to these specific issues and used them as primary sources of information on the ASCMP's operation.

The Evaluation Team gave special emphasis to the following issues:

- The effectiveness of the Territory in monitoring and enforcing the core authorities which form the legal basis of the ASCMP;
- The manner in which the ASCMP is providing technical assistance to village governments on coastal issues;
- The manner in which the Territory is monitoring, reporting, and where necessary, submitting program changes to OCRM;
- Status of ASCMP's efforts in public education and program visibility;
- The manner in which the ASCMP coordinates with other Territorial, local and Federal agencies and programs regarding such issues as water quality and hazards;
- The manner in which the ASCMP exercises leadership and addresses emerging coastal issues, such as improving interagency coordination of land use planning in American Samoa; and,
- The status of Federal financial assistance awards.

John H. McLeod, Evaluation Team Leader, OCRM Director's Office; Margo Jackson, OCRM Deputy Director, Jonathan Kelsey, OCRM Coastal Programs Division, and Terry Howey, Louisiana Coastal Program Manager, conducted a site visit from July 19 through 27, 2000. The Evaluation Site Visit Team met with representatives of the Territorial and local governments,

Federal agencies, interest group representatives, and private citizens during the site visit.

Prior to the site visit, the Evaluation staff provided written notice of the ASCMP evaluation to relevant Federal agencies and provided opportunities for them to respond. A Public Meeting was held on July 25 at 5:00 PM in the Rainmaker Hotel in Pago Pago. (**Appendix A** lists persons contacted in connection with the evaluation; **Appendix B** lists persons who attended the Public Meeting; **Appendix C** contains NOAA's response to written comments received.)

The ASCMP staff were instrumental in setting up meetings and arranging logistics for the evaluation site visit. Their support is gratefully acknowledged.

### III. PROGRAM DESCRIPTION

The territory of American Samoa consists of seven islands, totaling about 77 square miles, located 10° south of the equator in the mid-Pacific Ocean. American Samoa is the only U.S. territory south of the equator. The largest island, Tutuila, is approximately 54 square miles in area. The six other islands are Aunu'u, located just off Tutuila; Ofu, Olosega, and Ta'u--known as the Manu'a islands--located about 80 miles from Tutuila; Rose Atoll, an uninhabited National Wildlife Refuge; and Swains Island, which is approximately 225 miles north of Tutuila.

The American Samoa coastal zone includes the entire land mass of the territory, as well as territorial waters and submerged lands extending seaward three miles, with the exception of excluded Federal lands. (The Federal government does not own land in American Samoa outright. Lands under lease to the Federal government, however, are considered excluded.) Excluded Federal lands include Rose Atoll, which is a National Wildlife Refuge, the American Samoa

National Park lands of Tutuila, Ofu, and Ta'u, and Pago Pago International Airport. The original program document identified two areas for special emphasis: the inner Pago Pago Harbor area and Nu'uuli Pala Lagoon, the largest estuarine system in the territory. Since then, the 1990 American Samoa Coastal Management Act designated one other area for special management, the Leone Pala Lagoon, also a significant estuarine system.



#### A. General Background

The territory's population in 1980 was 32,300. By 1990, it had increased 45 percent to 46,700, 96 percent of which lives on Tutuila. By the year 2009, the territory's population is expected to double the 1990 figure. Only 30 percent of the land area of Tutuila and the Manu'a group is of less than a 30 percent slope. As a result, Tutuila's average human population density on lands less than 30 percent slope is nearly 2,800 persons per square mile. Increasing demands for land that can accommodate structures will continue to be the American Samoa Coastal Management Program's (ASCMP) greatest challenge.

## ***Land Tenure***

Traditional land tenure in American Samoa is based on lands held communally by *aigas*, or extended families. Several *aigas* may make up a village. By ancient tradition, land ownership extends not only to lands occupied or cultivated, but to the tops of the mountains and to the edge of the reef as well. Communal lands are rarely transferred. Ninety two percent of all land is still communally owned by *aigas*. One percent is in freehold status. The remainder is held by the territorial government or by churches. Territorial laws aimed at preserving this system have existed since the first U.S. Navy administration of the islands in 1900.

## ***U.S. Jurisdiction***

The U.S. assumed jurisdiction over American Samoa in 1889. The U.S. Navy administered the islands until 1951, when President Truman transferred administration to the Department of the Interior. Since 1978, citizens of American Samoa have elected their own governor, and since 1981 they have elected a non-voting member of the U.S. House of Representatives. American Samoans are U.S. nationals by birth, and a substantial number have acquired U.S. citizenship.

## ***Economy***

The territory has shifted slowly from a traditional, subsistence level economy to a western-style market economy. This shift has been partly responsible for a drop in local production of goods and agricultural commodities and an increased dependence on, and desire for, imports, services performed by others, western standards of living, and western-style housing. Increased consumption and reduced local production have resulted in less self-reliance and greater economic dependence on the U.S. Some of the islands' recent economic growth may be attributed in part to assistance provided the islands following three major hurricanes, in 1987 (Tusi), 1990 (Ofa), and 1991 (Val).

The American Samoa Government is the territory's largest employer, employing 38 percent of the work force.; two tuna canneries employ another 37 percent. Many cannery workers are Western Samoans attracted to Pago Pago by higher wages and better social services. These "guest workers" have contributed significantly to American Samoa's recent population growth.

## ***Traditional Governance***

The traditional Samoan way of life, *Fa'a Samoa*, places more importance on group welfare and achievements than on the individual. It revolves around *aigas*. An *aiga* is headed by a *matai*, or chief, who manages the communal economy, protects and distributes family lands, is responsible for the welfare of all in the *aiga*, and represents the family in village councils. In addition to overseeing normal municipal functions, village councils, made up of all the village's

matais, reconcile conflicts among village residents, usually through negotiation. Cooperation, consensus building, and group decision making are foundations of the traditional system.

The matai system is actually a complex hierarchy of chiefs, beginning at the village level and extending to a paramount chief, the equivalent of a head of state in a western political organization. The influence of the matai system has diminished somewhat over the past decades in the face of sharp population growth and spreading western values, but it remains a powerful force both socially and politically within American Samoan culture.

Under the American Samoa Code, each village is authorized to enact regulations concerning the cleanliness of the village, planting of lands, and any other matters of local nature. Councils are also authorized to adopt land use ordinances that prescribe soil conservation practices for agricultural lands and provide coordinated soil conservation programs. Such regulations must be approved by the Office of Samoan Affairs (see below), proclaimed publicly, and posted in writing before they take effect. Regulations also specify the penalty to be imposed for their violation. Violators are taken before the proper court (usually a village court, consisting of a magistrate selected by the village council). Under ASG law, villages do not have formal zoning authority, but as a practical matter, matais exercise almost complete control of land use decisions on aiga and village lands.

### ***Territorial Government***

The territorial government is a U.S.-type system of executive, legislative, and judicial branches. The bicameral legislature, the Fono, has lawmaking authority under the territorial constitution. Members of the House are elected for two-year terms and may include residents of all social strata. Senators are registered matais who are selected by county councils for four-year terms. The judicial branch includes a high court and five district courts. An elected governor heads the American Samoan Government (ASG). The head of the judiciary, the Chief Justice, is appointed by the Secretary of the Interior. A local government system of 51 villages, 14 counties, and 3 districts is administered by the territorial Office of Samoan Affairs.

### ***Office of Samoan Affairs***

The Office of Samoan Affairs (OSA) was established to integrate the traditional, village-based governance system with the centralized, western-style government. Formal links between the two systems are provided by *pulenu'us*, or mayors, appointed by the governor. Pulenu'us are matais employed by OSA; their role is to act as conduits of information between OSA and the various villages. ASG agencies do not have direct relationships with villages; all contact with village hierarchies is through pulenu'us and coordinated through OSA. The system is designed to recognize the village hierarchy while encouraging village leadership to acknowledge ASG agency authorities.

Although the influence wielded by pulenu'us varies among villages and may be a function of a pulenu'u's rank as a matai, these village leaders play an important role in furthering ASCMP goals. Pulenu'us inspect villages for compliance with environmental health regulations governing water quality, watersheds used for public water supplies, solid waste disposal, pollution, and swimming sites. They also "provide alternative sanctions to those of the court system for environmental infractions relating to ordinances specific to particular villages." Recently, ASCMP has expanded efforts to involve pulenu'us more directly in program implementation. These efforts are described in more detail in other sections of these findings.

### ***Influence of Traditional Governance/Social Structure on ASCMP***

The traditional system has influenced the effectiveness of western-style regulatory systems such as ASCMP. Territorial laws and regulations tend to be western in concept and based on western notions of private property, due process, and government protection of individual rights. Unaccustomed to the concept of external, territorial controls over land use and management, many elder matais have resisted the efforts and regulations of the ASCMP, as well as efforts to settle disputes and violations of territorial law through the judicial system rather than through the traditional village system.

Some matais still have not accepted the authority of the ASCMP to make land use decisions. Some also have not accepted the concept of government ownership of submerged lands. At times the attorney general's office has been reluctant to prosecute cases involving land use violations--in part because of the potentially explosive nature of some land use disputes.

The success of coastal management in American Samoa depends largely on the Program's ability to work within both the traditional and western governmental systems. Access to and influence within the traditional system can be limited, and since the traditional system is intertwined in many ways with the territorial government, influence there is also affected to some extent.

## **B. Program Policies and Authorities**

### ***Policies***

The Coastal Program Document establishes a number of program policies, which fall into three categories: government processes, development, and resource protection and management. For each policy, the Program Document identifies an agency with primary implementation responsibility and other agencies with lead roles. The Department of Commerce (DOC), in addition to being the primary implementing agency for some policies, implements the land use permit program and plays a general coordinating role for ASG comment on and review of land use permit applications. DOC also funds demonstration and other special projects, studies, public education, and other activities to assist ASG agencies in carrying out coastal management

functions. The description of these policies and implementation tools here is drawn from the original Program Document. Since then, there have been major changes to ASCMP authorities and implementation techniques. A summary of the policies set forth in the Program Document follows:

#### *Government Processes*

- *ASG Coordination:* Improve the efficiency and effectiveness of government operations by promoting interagency coordination, increasing staff expertise, and increasing sensitivity to *fa'a Samoa*. DOC is the lead agency.
- *Village Development:* Coordinate and guide village development activities in a manner consistent with ASCMP policies. Under the approved program, DOC was to assist villages in creating development plans for each village that incorporated ASCMP goals and to ensure ASG development activities were consistent with the individual village plans. DOC and the Office of Samoan Affairs are the lead agencies. DOC/ASCMP has by and large abandoned this element of the program. In a new effort to involve the villages in coastal management, however, DOC/ASCMP is focusing on village level planning and management projects for coastal hazards and wetlands protection.

#### *Development*

- *Shoreline Development:* Reduce exposure to coastal hazards and protect access and scenic values by subjecting proposed development within 200' of the mean high water line (measured horizontally) to review and determine whether the development would be susceptible to shoreline erosion or other coastal hazards, diminish visual or physical access to the shore, or degrade coastal resources. The Department of Public Works, through its building permit authority, was originally the primary implementing agency, along with the Zoning Board, which controls general land uses. DOC was to assist villages with development plans that are consistent with this policy. New authorities, described below, have since given DOC lead implementation authority.
- *Coastal Hazards:* Reduce the threat that floods, landslides, and shoreline erosion present to life and property by reviewing proposed development in areas prone to stream and ocean flooding, landslides, and shoreline erosion against a series of criteria, including limitations on "hard" structures as a response to coastal hazards. Again, the Department of Public Works was



the primary implementing agency, along with the Zoning Board, Department of Public Safety, and DOC through its implementation of the National Flood Insurance Program (NFIP). DOC and the Zoning Board are notified on such issues.

- *Slope Erosion:* Reduce soil erosion caused by road building and other construction activities through improved design and permit review processes. The Department of Public Works is the implementing agency for infrastructure projects. For other construction projects, DOC/ASCMP now plays a lead role.
- *Fisheries and Agricultural Development; Protection of Marine Resources:* Promote sustainable subsistence and commercial fishing and agriculture that is consistent with other ASCMP resource protection and management policies by encouraging sound management practices. The Departments of Marine and Wildlife Resources and Agriculture implement the policy through their various authorities with assistance from DOC.

#### *Natural Resource Management and Protection*

- *Reef Protection:* Protect and restore the island group's vital coral reefs by prohibiting direct harm such as dredging and filling unless there is an overriding public benefit, and minimizing harm from indirect effects such as sedimentation and overfishing. The Department of Marine and Wildlife Resources implements this policy through its jurisdiction over submerged lands to the 10 fathom isobath. DOC provides technical and financial assistance, as well as public education, resource inventories, and other services.
- *Recreation and Shorefront Access:* Expand and increase recreational opportunities for residents and tourists by providing recreational facilities, acquiring parks, and other activities to promote physical and visual access to the shoreline. The Department of Parks and Recreation (DPR) implements this policy, whose Parks Commission oversees management of park and recreational facilities under DPR control, with assistance from the Zoning Board, which has the authority to designate "recreation conservation" areas between the road and the shoreline. The Department of Public Works also assists through building permit reviews.
- *Water, Drinking Water, and Air Quality:* Maintain and where necessary restore high water quality, provide and maintain safe drinking water, maintain high air quality through the various authorities of the agencies networked into the ASCMP. ASEPA plays the lead role in implementing regulatory and management programs addressing environmental quality;

DOC plays an assisting role in monitoring and enforcement and funding studies and research for alternatives that minimize adverse effects on water and air resources.

- *Unique Areas/Historical, Archeological, Cultural Resources:* Protect American Samoa's archeological, historic and cultural resources, and other unique or valuable areas. The Historic Preservation Office is primarily responsible for implementing this policy; DOC assists by helping to identify archeological sites and coordinating permit reviews. Unique areas includes wetlands, which are protected through the implementation of the authorities of the ASCMP.

### ***Authorities***

The initial legal authority for the American Samoa Coastal Management Program was contained in an executive order signed on 29 May 1980. The original executive order identified the ASCMP coastal management policies outlined above, definitions applicable to the ASCMP, and procedures for DOC/ASCMP review of all permits issued by ASG agencies. NOAA approved the American Samoa Coastal Management Program in September 1980.

In 1988, the Governor issued a new executive order, which expanded DOC/ASCMP implementation authorities. Most importantly, the revised executive order required that any land uses, development or other activity that affected the coastal zone first receive a new land use permit from DOC/ASCMP. The executive order also replaced DOC/ASCMP permit coordination procedures with a formal interagency review process, which has evolved into the Project Notification and Review System (PNRS) described below. Finally, the revised executive order also provided ASCMP with additional enforcement authorities.

In December 1990, ASCMP enabling legislation, the Coastal Management Act of 1990 (P.L. 21-35), superseded the 1988 executive order. The act provides that the "general purpose of ASCMP is to provide effective resource management by protecting, maintaining, restoring, and enhancing the resources of the coastal zone" through several means:

- protecting unique areas and resources, including wetlands, mangrove swamps, aquifer recharge areas, critical habitat areas, streams, coral reefs, watersheds, nearshore waters, and designated or potential historic, cultural or archeological sites from destruction or inappropriate development;
- developing strategies for coping with sea level rise, other coastal hazards, and cumulative impacts;
- promoting the public health and safety and economic welfare in the conservation of wildlife, marine, and other resources;
- Coordinating planning, monitoring, and enforcement activities for all ASG

agencies whose activities affect the coastal zone; and

- improving and expanding recreational activities.

The statute also codifies the DOC/ASCMP Land Use Permit program and enforcement mechanisms, prohibits any kind of fill without appropriate permits, sets out a penalty matrix, and establishes an environmental restoration fund.

## **C. Program Elements**

### ***Department of Commerce***

The American Samoa Coastal Management Program is housed in the Environmental Division of DOC along with Fagatele Bay National Marine Sanctuary. In addition to coastal management functions, DOC is also responsible for local implementation of the National Flood Insurance Program (NFIP). It also houses the Planning Division charged with Community Development Block Grants, general territorial planning and compliance, which enforces ASCMP and the territorial business license requirements; and the Economic and Business Development Division, responsible for economic planning, industrial development, and similar activities.

ASCMP exercises four types of authority in implementing its program policies: regulatory, fiscal, proprietary, and acquisition. Fiscal, proprietary, and acquisition authorities are identified in the program document as important elements, but day-to-day coastal resources management primarily involves the ASG's regulatory authorities through the PNRS. DOC also is responsible for much of the territory's planning, and where it is not directly responsible, plays a critical role. The planning activities described below are designed to operate in support of ASCMP policies.

*Village Plans*--The completion of village land use plans for all 51 villages was initially conceived as an integral part of the American Samoa Coastal Management Program. Although villages retain no formal zoning or permitting authority, as a practical matter village leaders exercise considerable power over land uses. To involve the villages in implementing ASCMP policies fully, the approved program envisioned individual village plans that:

- inventoried existing conditions and resources;
- identified expected land uses; and
- developed a comprehensive village land use plan.

DOC was to provide technical expertise and other resources to assist villages in plan development. Once developed, plans were to be implemented through the authorities and procedures of the Zoning Board.

The Program Document outlined a process by which the village plans would become part of ASCMP. First, DOC would circulate the plan for review by agencies and interested parties. Second, DOC would submit the plan to the Zoning Board for adoption. Finally, the adopted plan would be incorporated into ASCMP in accordance with NOAA regulations. According to the Program Document, at the time of Program approval, all villages had completed the first element of the planning process (an inventory of existing conditions and resources) and DOC was working with each village to map existing and expected land uses.

Unfortunately, this component of the coastal management program has never been completed. To date, no village has completed a plan and the original planning process has been abandoned. DOC/ASCMP, however, is pursuing village-level planning in parts of Tualauta County, and issue-specific plans to address coastal hazards and wetlands in selected villages.

*Quality of Life Plan*--The ASCMP document cites two major plans that guide planning for and managing development in American Samoa: the Economic Development Plan and the Quality of Life Plan. These plans are designed to complement each other, reflecting the equal importance of economic growth and ensuring *Fa'a Samoa* is preserved. Together, the coastal program and the two plans were to provide a holistic vision for planning and development in the territory. The Economic Development Plan, which the Territorial Planning Commission, the Governor, and the *Fono* have approved, was completed in the early 1980's. Completion of the Quality of Life Plan has lagged; as of the site visit, it was not finished.

*Tualauta Baseline Study*--DOC has participated in specialized planning efforts, most notably the Tualauta Baseline/Tafuna Plain Study. The Tafuna Plain arguably is in most pressing need of planning and management given that it is already densely settled but still faces increasing pressure for intensified development. In cooperation with the American Samoa Power Authority and other ASG agencies, ASCMP commissioned a comprehensive assessment of the Tafuna resource base and a comprehensive land use plan.

*Comprehensive Wetlands Management Plan for the Islands of Tutuila and Aunu'u*--DOC/ASCMP commissioned this wetlands assessment and management plan to guide its efforts to address continuing wetlands losses. Completed in January of 1992, it is part of the foundation for revitalized local planning efforts.

### ***Project Notification and Review System (PNRS)***

As a practical matter, almost all significant construction activities are subject to land use permitting requirements. Before the Department of Public Works issues a building permit, the project applicant must obtain a land use permit from DOC through the Project Notification and

## Review System (PNRS).

The PNRS is designed to be a coordinated, "one-stop" permitting process through which the participating agencies conduct simultaneous project reviews, then meet with the project applicant, if necessary, to discuss agency concerns, project design alternatives, mitigation, and other special permit conditions. Land use permits are issued for "major" and "minor" categories of projects. DOC Compliance Division staff review land use permit applications and classify proposed activities as major or minor. Minor project permits may be issued by the DOC Compliance Division following a site inspection. A public notice period allows other PNRS agencies to review minor permit applications as they deem necessary. The PNRS Board reviews and visits project sites for all major permit applications and must make a formal approval or denial decision.

Under current written DOC/ASCMP guidance, to be considered "minor," projects may have only a minimal impact on the islands land and water resources, may not be located on a steep slope, in a wetland, or in an NFIP floodplain zone. Minor projects include repairs to existing facilities, guest *fales* and single family houses. About 75 percent of all land use permits are issued for "minor" activities.

Major projects are those uses DOC/ASCMP determines have "significant potential impact" on the coastal zone from increased discharges of pollutants or sediment, or have any form of adverse impact on reef systems, wetlands, critical habitat, beaches, or special management areas. Commercial structures, road building and dikes or seawalls usually are considered major projects.

The PNRS Board consists of representatives of the following agencies:

- |                                     |  |
|-------------------------------------|--|
| -Department of Commerce/ASCMP       | -Department of Marine and Wildlife Resources |
| -AS Environmental Protection Agency | -American Samoa Historic Preservation Office |
| -American Samoa Power Authority     | -Department of Public Works                  |
| -Department of Health               | -Department of Parks and Recreation          |

DOC/ASCMP staffs and chairs the PNRS. PNRS approval decisions must be unanimous, and any PNRS Board member may request that a minor permit be elevated to major permit status.

## ***Zoning Board***

The Zoning Board, appointed by the Governor, enjoys considerable authority to zone permissible land and structural uses for the entire territory and grant requests for variances. The board is authorized to adopt a zoning map that divides areas into ten zones including designations such as "single dwelling," "general commercial," and "watershed conservation."

The American Samoa code also establishes permissible uses and regulations for each of these zones. For the watershed conservation zones, for example, all uses must be "conducted to insure maximum protection against erosion and contamination of water supplies, and to insure preservation of the natural characteristics of the watershed area." The statutory provisions relating to recreation conservation zones are even more explicit, and call for the Zoning Board to further classify these zones into five sub-zones ranging from "natural preserves," which must remain unimproved, to "historical and pre-historic objects and sites," which are to be administered consistent with Department of the Interior historic preservation guidelines. In the program document, zoning is described as a primary tool for land use planning in American Samoa. Little zoning, however, has been accomplished.

DOC/Business Division provides staff assistance to the board. ASCMP plays a significant role in the zoning process by reviewing all applications for zoning classifications, variances, and permit requests as well as determining, in "cooperation with" the agencies with relevant authorities, how best to guide development to suitable areas.

### ***Territorial Planning Commission***

The Territorial Planning Commission (TPC) has the authority to prepare and recommend a general planning program for American Samoa and to participate in its implementation. The TPC is advised by a board consisting of the seven department and office heads of the government of American Samoa. DOC assists the TPC in the development of plans, processes, and analyses. The commission consists of nine members appointed by the Governor, six of whom represent each of the territory's planning district areas, and three of whom represent industry and private business interests.

### ***Environmental Quality Commission/AS Environmental Protection Agency***

This commission consists of five members appointed by the Governor to serve for an indefinite period of time. Through the American Samoa Environmental Protection Agency (ASEPA), the commission administers the Environmental Quality Act and is authorized to adopt rules to implement the Act and to develop plans for the prevention or control of air and water pollution in the territory.

The Environmental Quality Act provides for a "coordinated Territory-wide program of air and water pollution prevention, abatement, and control." The Commission and ASEPA establish discharge and emission control requirements and may require the owner or operator of any potential air or water contaminant source to establish and maintain records, monitor, etc. The Commission and ASEPA may also prohibit construction or modification of any source of air or water pollution. The Act was passed during this review period with the omission of wetlands from the legislation.

The Commission and ASEPA establish water classifications and variances for restricted

uses of wetlands. The commission is authorized to issue stop orders and emergency restraining orders, initiate hearings, and apply to courts for injunctions. ASEPA also carries out field inspections of embayments and wetlands to identify environmental problems resulting from dumping, fill, and other discharges. ASEPA and ASCMP have collaborated in a number of areas, including wetlands management, marine debris, and nonpoint source pollution control.

### ***Department of Marine and Wildlife Resources***

The Department of Marine and Wildlife Resources' (DMWR) mandate is to manage, protect, preserve, and perpetuate marine and wildlife resources, including coral reefs. In addition to data collection and research to monitor the health of the territory's marine and wildlife resources, the Department operates permitting and licensing programs for activities that affect marine resources. DWMR also conducts public education campaigns and other efforts to promote public awareness of the islands' natural resources; ASCMP has collaborated with the agency in some of these activities.

### ***American Samoa Power Authority***

The American Samoa Power Authority (ASPA) is a quasi-independent agency responsible for the territory's utility infrastructure. Because of ASPA's need to anticipate new demands for utility services, it has emerged as a driving force in planning in the territory. In addition to providing water and electricity, ASPA oversees ASG's septic tank program. ASPA provides site plan services to the public to assist in facilitation in the acquisition of land use permits from DOC.

ASPA acts to support ASCMP in several arenas. For example, the agency will not provide utility hook ups unless a structure has met land use permit requirements. ASPA has also established its own Hurricane Preparedness Plan to ensure critical power and water needs during emergencies and has begun the process of burying power cables in the downtown Pago Pago area and in the Manu'a Islands. ASPA played a pivotal role in launching the Tualauta Baseline Study. The Tualauta study is envisioned as the first of a series of master planning efforts in the territory.

## ***D. Conclusion***

The American Samoa Coastal Management Program (ASCMP) operates in a unique context that requires a careful marriage of a western-style regulatory regime with traditional village-based decision making. Individuals' identification with family, village, and Fa'a Samoa is strong, and traditional governance and decision making remain vital. While ASG agencies may appear to operate in a western manner relatively independent of the village structure, traditional

governance and Fa'a Samoa continue to be major influences there, as well.

DOC/ASCMP faces a number of challenges. First, only a narrow band of land around the four primary islands is habitable; the coastal zone's capacity to absorb the effects of environmental degradation and destruction is minimal. The islands' ecosystem, already under intense pressure from rapid population growth, has been further stressed by the enormous environmental damage caused by the hurricanes of 1987, 1990 and 1992. Thus, although threats to resources from development are similar to those in a mainland coastal state, the cumulative effects of degradation will be felt much sooner in American Samoa than they would on the mainland.

Second, what might appear to make sense from a western perspective in terms of program operations or improvements may, in fact, be counter-productive if such approaches conflict with Fa'a Samoa or are pursued without the support of village leadership. Permitting programs and enforcement efforts need the support of village leadership to succeed, and DOC/ASCMP must undertake intensive efforts to gain that support within the traditional political structure.

At the same time, business people, investors, and others whose activities fit well within a western regulatory regime are also active in American Samoa. The Tafuna Plain area in particular hosts a number of developments with potentially important primary and cumulative effects. ASCMP must also have the technical, regulatory, and legal framework at hand to deal with such development proposals. This problem is exacerbated by the fact that one effect of the emerging cash economy has been to weaken the Samoans' traditional tie to the sea.

In general, ASCMP has responded positively to these challenges and has great potential to expand and improve its management of American Samoa's coastal resources in the context of the challenges outlined above. A number of changes are needed to improve the effectiveness of the ASCMP's activities within ASG and to focus its activities consistently on specific problems.



#### IV. PROGRAM ACCOMPLISHMENTS

The true strength of any program lies in its supporting staff and American Samoa is fortunate in this regard. It is through their efforts that the significant accomplishments documented here came to fruition. During the period of time covered by this evaluation, March 1997 through July 2000, the American Samoa Coastal Management Program has addressed many coastal issues. This has resulted in 3 years of growth in program implementation. The results detailed below would not have occurred without committed leadership and staff. Ultimately, the actions of ASCMP personnel lead to the specific accomplishments detailed below.

##### A) Coral Reef Task Force.

ASCMP activities in support of the Coral Reef Task Force stand as a singular achievement during the review period. Strong support from the highest levels of Territorial government has pushed American Samoa into a leadership role among island programs in addressing coral reef issues and its own, local advisory group has developed a 5-year plan for coral reef management in the Territory. The Governor of the Territory was the only such official from insular coastal programs to attend and actively participate in Coral Reef Task Force meetings during the past several years. Through such active participation and the work of the advisory group, American Samoa was awarded funding to remove nine fishing boats that were grounded on coral reefs during hurricane events and was later provided funds to restore the reefs. It has also promulgated a “live rock law” prohibiting the taking of any coral, and completed a population study which documents the increasing island population as an impact to coastal resources including coral reefs. This, and the active program to address coral reef management was acknowledged by every Federal agency interviewed during the site visit.

In May 1999, the American Samoa Coral Reef Advisory Group convened a workshop to develop a 5-year plan for coral reef management in the territory. The group of local agencies, the public, and specialists from off-island reviewed coral reef issues from a small-island perspective and focused on three topics of local concern:

- A. Are reef resources being overfished,
- B. How should reef “health” be monitored, and
- C. How much impact does local water quality have on reef resources

Principal conclusions of the workshop were that local reefs were already overfished and that water quality improvements in Pago Pago Harbor need to continue. This led to the following resolutions:

- (1) Overfishing is a serious and urgent problem on coral reefs in American Samoa. A major contributor to this problem is scuba fishing which should be prohibited in all territorial fisheries, as it is on Australia's Great Barrier Reef and several other countries. Additionally, a full recovery plan for fisheries should include a network of marine protected areas, community-based management, monitoring of the total harvest of coral reef resources, and better enforcement of regulations.
- (2) Despite welcome improvements in water quality in Pago Pago Bay, the Harbor still does not support coral reef recovery, safe swimming, or fish that are safe to eat. A step-wise recovery plan should be implemented that builds upon the progress made to date.
- (3) Coral reefs surrounding the islands can be directly damaged by land-based activities, and so land and sea environments cannot be viewed as being separate from each other. The Coral Reef Advisory Group strongly advocates that all developments in the Territory be fully assessed for their potential impacts to coastal waters.

The Advisory Group subsequently crafted a set of recommendations for monitoring and research for the management of Samoa's coral reefs, the *Report of Workshop and Development of 5-Year Plan for Coral Reef Management in American Samoa*. The recommendations were drawn into the framework of the five year plan which includes Reef Fisheries Assessment, Reef Management, Reef Health, Water Quality, Education, and Enforcement.

As a part of the destruction brought about by Hurricanes Ofa (February 1990 and Val (December 1991) a number of longline fishing vessels were grounded on the reef flats of Pago Pago Harbor. American Samoa, with leadership from its Governor, secured \$3 million through the Oil Pollution Control Act to remove the vessels. Another \$3 million was provided to support restoration activities once the vessels were removed. The overall effort partnered the Territory with a number of Federal Agencies in the overall effort. Through the combined efforts of NOAA's Office of Response and Restoration, the U.S. Coast Guard and the Department of Interior, nine longline fishing vessels that had been grounded were removed from the flats. Restoration efforts included: (1) conducting complete vessel removal to allow natural recovery in areas under the vessel footprints, (2) repairing gouges in the substrate, (3) conducting coral transplants, and (4) validating of the Aua transect, a source of long-term monitoring data on

Pacific coral systems, to restore the confidence of the scientific community that the transect will continue to provide useful monitoring data.



Coral restoration experts from NOAA's National Marine Sanctuary Program were on-scene in Pago Pago Harbor to transplant corals.

The Coral Reef Advisory Group also supported the population report *Impacts of Rapid Population Growth in American Samoa: A Call for Action*. (This report is separately highlighted in this accomplishments section.) It also provided the scientific support needed for American Samoa to enact the "Live Rock Law" which establishes the value of protecting coral. As a result of the law, and the use of consistency, the American Samoa Department of Marine and Wildlife Resources denied the permitting of a loosely veiled "experimental" collection of live rock. Recognizing the proposed permit for what it actually was, the permitting of the taking of coral for the world's aquarium trade, the ASCMP intervened through the application of the consistency provisions to stop the permit before any damage occurred. It should be noted that the members of the Advisory Group provide their support in addition to an already full set of job requirements so that the work is over and above what would normally required of their positions. (For a full listing of membership go to the Listing of Persons Contacted during the review at Appendix A.)

## **B) Work with the Villages - Community Based Wetlands Management.**

In 1996, the Community Based Wetlands Management Program was in its infancy. Although, an effective strategy for wetlands management, the program has taken more time to implement than was anticipated due to community negotiations, interagency issues, and personnel changes. The strategy for the ASCMP wetlands program developed in 1996 was based on the results of the public meetings and recommendations received from an Advisory Council. The subsequent three year work plan included the use of a village conservation officer, wetlands specialist and hydrologist to finalize delineations of thirteen wetland villages. In addition, funds were to be used to establish a GPS base station to facilitate mapping efforts. It is anticipated that seven villages will be completed (approximately 74% of American Samoa's wetlands). This is a significant accomplishment because this is a new concept and a contentious issue.

The Strategy recommended funding a hydrologist to evaluate and monitor hydrological characteristics of wetland areas, assist with wetland protection and restoration projects, participate in mapping and zoning work, and aid in the development of village ordinances and other regulatory efforts. However, the leveraging of funds and personnel with the American Samoa Environmental Protection Agency (ASEPA) allowed hydrologic work to be completed while freeing up would-be personnel funds for additional projects. ASEPA funded and proposed projects involving hydrologic assessments include: watershed protection plans, stormwater controls, hydromodification assessments, a wetlands restoration study, and drainage studies. Although no formal Memorandum of Agreement exists with ASEPA, technology and data transfer has been seamless.

Although the need for a hydrologist is lessened due to a partnership with ASEPA, the ASCMP Wetlands Specialist continues to oversee all aspects of the wetlands program including delineation's, mapping, restoration, outreach, and enforcement. The village Conservation Officer continues to provide support for the enforcement program and Project Notification and Review System with respect to proposals in wetland areas or boundaries. To counteract a lack of personnel, and to dovetail with the community based wetlands management program, ASCMP hopes to recruit help from within the communities to increase enforcement and biological monitoring. In addition, ASCMP has been fortunate to receive Americorp members who float within all program sections including the wetlands program.

The ASCMP has worked to develop community based wetlands protection in keeping with the traditional approach to land use within Samoan culture. Recent initiatives indicate that the work will ultimately result in enhanced protection of American Samoa's valuable wetland resources. In April 1999, a workshop for all village liaisons and facilitators was held to introduce the new Wetlands Specialist and to rejuvenate the program. The workshop was well attended and much interest in the program was expressed. Aunu'u is an example where through village liaisons the agreements and ordinances were developed to the point of having a Comprehensive Wetlands Plan. Most recently, a poster commemorating the village agreement and interpreting the wetlands of Aunu'u was completed and presented to the island leadership. At the time of the site visit, the status for participating villages was:

Nu'uuli data is in hand;

Aunu'u delineation is 80% complete, a *faleo 'o* (traditional shelter) at quicksand lake has been built by the village *aumaga* to enhance the visitors experience, and a poster of the island wetlands and their significance has been created;

Masefau delineation was halted after 50% completion, since the workshop the village has expressed interest in completing the exercise;

Tula data is in hand and a new MOU between the village and ASCMP was signed in April 2000;

Leone data is in hand, ground truthed and maps and zones have been created, two village council meetings were held to present the delineation and proposed zoning, this met with general resentment and the village proposed to have a wall built around the wetland, follow-up is ongoing; and,

Ofu data is in hand. A sign commemorating village and government relationships highlighting the importance of wetlands was recently erected.

The initial problem with the community approach was that too many villages were involved at once. There was also the problem of DPW support, which lagged. A 1995 delineation only recently resulted in wetland maps, which are not indicative of what exists today. As a result of those delays, the trust of the local villages has been lost. This was compounded by the loss of the Wetlands Specialist in 1997 and the delay in finding a replacement until 1999. A further problem occurred when the Department of Public Works, changed policies involving compensation for services rendered. A Memorandum of Understanding between DPW and ASCMP was not completed until



August 1999. With the renewed interest expressed by the villages at the workshop, the situation has been reversed. In addition, ASCMP has become self sufficient in the development of maps to support the effort. Computer hardware and software capable of handling the GIS (ArcView) capabilities as well as securing the digital outputs from contracted work has been acquired. The current Wetlands Specialist is proficient with GIS and other staff members have begun to take training in use of the new equipment. The purchase of a hand held Global Positioning System adds to ASCMP's technical arsenal.

Quicksand Lake - Aunu'u

### **C) Training.**

As a result of a training program for code enforcement personnel developed with the University of Hawaii, permit monitoring has improved during the review period. The program, which typically occurs in Hawaii, provides a formal education program with field trips to specific permit sites at issue or with educational value and a period of time working in the City of Honolulu permitting office as a permit officer. The training provides for skill enhancement and provides "real world" lessons from the Hawaii experience on management issues. A major element of support for the program came through the NOAA Sea Grant program to the University of Hawaii, a financing source lost when funding was redirected to MAREPAC. However, ASCMP funds have been targeted to maintain the program, which costs, inclusive of travel and cost of living expenses, no more than \$5,000.

Other venues for continued personnel training are under consideration with the American Samoa Community College figuring prominently in discussions. Having a detail from the permitting agency of another state or territory come to American Samoa and work with the permitting staff has also been considered. This almost happened with the detail of the Honolulu permitting office chief, but factors intervened and the undertaking did not occur. The overall result is to continue improvement of permit monitoring and enforcement.

#### **D) Outreach Activities.**

The ASCMP has developed a comprehensive slate of outreach activities which keep information regarding coastal resource management issues before the public. In part all elements of the program provide some outreach, be it the permit monitor in explaining why a specific requirement must be met, or the village wetlands program, which serves as much to inform the public of the value of wetland preservation as it serves to preserve wetland areas. The outreach program uses Americorp volunteers to augment staff in carrying out the various events. Specific outreach events carried out throughout the year include:

***Wetlands Month.*** In May, all of American Samoa is involved in skits, songs, and school tours highlighting the value of the territory's wetlands. Shirts are provided as promotional items, posters and signs advertise the message of the month and trivia contests and media blitzes are conducted.

***World Environment Day.*** ASCMP with the help of Le Tausagi (an interagency environmental educators group) member agencies held the first ever World Environment Day celebration in American Samoa in 2000. With a keynote address from the Governor, Environmental Hero Awards were presented and the video "A Mangrove Story" had its debut. Because of its success, planning for the next year's event has begun as it becomes an annual event.

***Enviro-discovery Camps.*** These occur each summer and provide an outdoor coastal environmental experience for 8 to 13 year-old children in a camp environment. The eco-camp get-away is a fun filled two days and one night of learning and celebrating the importance of coastal areas. Camps are held at various coastal sites around the island. This activity attracts students and parents alike. Local resource people and environmental groups conduct hands-on sessions, traditional storytelling, folklore drama, reef walks, cleanups, and various fun and educational activities at the camp. This project is a co-sponsored activity with other environmental agencies (Le Tausagi), including assistance from the Arts and Humanities Council, Department of Education, and the AmeriCorp Interns. At the outset of each camp week, students complete a K-W-L Survey. The survey identifies what the students "(K)now" about; a counselor then asks what the group "(W)ants to learn or get out of the session." The recorded

responses are compiled for the staff to address. To find out whether the camp was beneficial for each individual and for the group, the group is asked to share what it "(L)earned." At the end of each session, campers are asked to write a reactionary entry into their camp journals, draw the most memorable portion of the session, and write stories of their experiences at camp that will be published in the local papers. Le Tausagi is responsible for developing a post event report which documents all activities, budget, attendance and review of all events-successes and failures.

***Coastweeks.*** Typically a three week celebration with a suite of activities ranging from an opening ceremony to pep rallies, pledges, wetland nature walks, and coastal area clean up events. It is also the "kick-off" of the Art and Tide Calendar artwork competition.

In addition to yearly events, the outreach program routinely organizes visits to schools, coordinates workshops on such topics as evaluation of the environmental education program and the religious consciousness project (discussed below), supports the American Samoa Symposium (see below), works with the press to provide timely interview support and press releases, and assists in the planning of Le Tausagi meetings. The work on the Star Mounds project, which also uses Americorp volunteers, is another example of the outreach activities of the ASCMP. ASCMP also participates in MASSIP internship and University of Oregon technical assistance programs which offer opportunities to students to conduct projects during a specific time period (usually over the summer).

#### **E) Watershed Restoration Strategies.**

During the review period, the ASCMP provided technical support for a Watershed Protection Plan for all watersheds in American Samoa. The plan includes an inventory of the natural resources within each watershed, an assessment of the challenges for environmental protection and a matrix of recommended management tools and actions. Five watersheds were prioritized by ASEPA as not meeting water quality standards: the villages of Nu'uuli, Tafuna, Leone, Pago Pago, and Fagaalu. These watersheds are the most populated and are under the greatest threat of nonpoint source pollution as American Samoa's population continues to grow.

An Interagency Advisory Committee meets monthly to discuss the status of key actions outlined in the watershed restoration strategies. Key actions include specific activities that target hazardous materials, filling, surface hardening and flooding, eutrophication, sedimentation, drinking water (groundwater), and solid waste. As such, the strategies are dependent on interagency cooperation and community support. Specific activities include an interagency effort to protect Fagaalu Stream and the restoration of 200 feet of stream bank and flood plain at a site under a Stop Work Order on Pago Stream. Nu'uuli and the Central Tafuna Plains were targeted

for concerted effort because: 1) community support from the village chiefs and a willingness for the plans to begin exists; 2) they are the most populated, most industrialized and most diversified on Tutuila; and, 3) the villages exist side by side providing the opportunity to cover a larger watershed area in which to reduce nonpoint source pollution.

#### **F) Enforcement Tracking System.**

Beginning in January of 1999, ASCMP began to look at the issue of violation tracking and monitoring, and began to implement some measures to improve its enforcement and monitoring. ASCMP developed and implemented a numbering system for all Stop Orders. Stop Orders are the primary tool for compliance requiring all work to cease and for the violator to appear before the Project Notification Review System (PNRS) Board at its next scheduled meeting. At that time the violator would then fill out a Land Use Permit Application, initiating the Consolidated Enforcement and Monitoring Tracking System Network, and the project would then be reviewed by all agencies. Agency recommendations would be provided to the PNRS Board who would make a final determination. The Enforcement Tracking System has been in place since December 1999 and ASCMP has published violators in the papers on a weekly basis. In addition, ASCMP developed a stop orders database to log in violators and correlate with permits issues if violations came into compliance.

The Consolidated Enforcement and Monitoring Tracking System Network is used by each of the agencies to input the status of compliance with conditions on issued permits, track violations, and record noted illegal activities for action by DOC staff. The 1997 Evaluation of ASCMP, noted that improvements in enforcement and monitoring of the PNRS was a much needed area of attention. The installation, maintenance and operation of the tracking system network for the PNRS agencies is one step in the direction of better coordination efforts and implementing a unified approach to enforcement of permitted and illegal activities in the Territory.

There are three major benefits of the revised Project Notification Review System (PNRS):

- (1) timely review of land use permit applications by providing coordination on all aspects of regulatory requirements of the various resource management agencies represented on the interagency PNRS Committee;
- (2) more meaningful environmental review of development proposals by bringing together the collective experience of 7 or 8 professionals, rather than a single person as was previously the case; and
- (3) a reduction in expense for the public by requiring early review of a project proposal at the conceptual site planning stage, rather than at the stage when



building blueprints are already approved by the DPW, thus eliminating expensive modifications to architectural plans, or in the event of project denial, eliminate the expense for such plans entirely.

**G) Population Document.**

In May 2000, the Governor's Task Force on Population Growth published the report *Impacts of Rapid Population Growth in American Samoa: A Call for Action*. The document was prepared to stimulate discussion regarding a booming population growth driven by immigration and family size, the document addresses impacts on culture; economy; infrastructure and land use; education, social and medical services; and environment. The report documents a 35% increase (16,300 people) in population during the past ten years. Totalling a population of 63,000, American Samoa will reach a population of 100,000 persons within the next 20 years. Unless present trends are reversed, the Territory will have a population of 180,000 by the year 2040.

Given the magnitude, complexity and far reaching consequences of the population problems identified, the report is a "call to action" to address the rapid growth rate through implementation of the Action Plan to reduce Population Growth developed as part 2 of the report. The plan identifies a population limit for Tutuila Island which should not exceed 115,000 people, the maximum predicated of drinking water supply. The plan also identifies six steps to reach the population goal: modernizing the immigration system; reducing immigration rates; family planning and education to reduce birth rates; and public education about the significance of the population issue.

**H) Attorney Support.**

One of the ongoing issues of ASCMP implementation has been the lack of litigation in support of the program to correct violations of permits and illegal actions. Recent events seem to indicate that this issue may be corrected. First, in conjunction with ASEPA and DMWR, ASCMP provides funding to the Office of the Attorney General to retain the services of the environmental attorney, who provides legal advice for the PNRS Board, provides support in interpreting ASCMP rules and in resolving violations, and provides support on other matters where legal representation is required. In the past this attorney had other duties in support of various committees and boards, the demands of which prevented full concentration on environmental issues and litigation. The new attorney has expressed a willingness to litigate citations and indicated that he would seek a lesser administrative burden. In concert with this, ASCMP has been authorized to employ an attorney who would be an Assistant Attorney General, capable of litigation. The previous attorney employed by the ASCMP did not have this authority and was relegated to provide legal support to questions of law. The result is the full time service of two attorneys to environmental litigation.

## **I) Education.**

The education program of the ASCMP embraces the schools, the public, private institutions and the Church. Outreach activities have a strong educational component such as the children's camps discussed above. The Art and Tide calendar ties the schools, whose pupils produce the artwork, with the private sector, who sponsor a calendar month and help fund the effort, with the ASCMP partnering agencies who host the awards ceremony. The religious consciousness project brought the religious community to an awareness of the importance of coastal stewardship and the American Samoa Symposium provides top caliber science students with an opportunity to compete with Hawaii's science students.

The Church plays an important role in the daily lives of most Samoans. ASCMP has tapped into this existing influence, the Church, as a vehicle to expand environmental awareness in an effort to change attitudes and behaviors of American Samoans related to land use. The American Samoa Council of Churches, a multi-denominational unit, was used for program development and implementation. There has been an environmental movement within churches worldwide. Recent searches on the internet has uncovered a vast network of organizations and churches dedicated to integrating environmental responsibility and religion. These organizations were tapped for assistance in program development. This led to the Religious Consciousness Project. For one-half a day people from the various denominations met to hear 10 minute presentations from ASCMP staff in an effort to share what the program does and to get feed back on how the program could be integrated into Sunday School programs and the religious school programs and curricula. Three such workshops were held exposing over 50 religious leaders to the idea of incorporating environmental and religious messages. Action plans were developed and staff has been invited to informational meetings which will further the initiative.

The American Samoa Science Symposium has affiliated with Hawaii and each year the top high school science projects are taken to Honolulu to compete. About five students go - two funded by ASCMP, 1 from DMWR, and 2 plus an advisor from DOE. This has been a successful program for students who excel academically in science research related to preservation of coastal resources. Under a sub-grant to the Department of Education (DOE) to coordinate this effort, a local symposium is held annually. ASCMP, with DOE sponsorship, continues to encourage parents, students, and educators to promote and protect the islands' coastal environment in this event. The Coastal Symposium directly benefits the participants academically. It also stimulates competitiveness amongst the science teachers and schools in participating in this educational and awareness effort. The symposium allows the students to present their research projects and showcase their knowledge and expertise on coastal resource protection.

**J) New “User Friendly” Program Document.**

The ASCMP has produced a “user friendly” program document Changing Environmental Behavior American Samoa Coastal Management Program in Review 1980 - 1999 to explain the program in layman’s terms. It is intended to put the issues of balancing a community’s desires with changing economic, technological, and environmental realities. Drawing from the living culture which nurtures and sustains the land and sea as the land and sea nurtures the culture, the document addresses the changes which have taken place in American Samoa over the past 50 years; greater change than had occurred in the previous 2, 950 years. The ASCMP has been existence for almost 20 of those 50 years to manage the ever more endangered natural resources of the islands. Rather than a recitation of regulation, law and act, the document is devoted to explaining why the law is important, and what the intent of the regulations is: to protect the culture of American Samoa, its resources, its land and its seas.

## V. REVIEW FINDINGS AND RECOMMENDATIONS

The Office of Ocean and Coastal Resource Management (OCRM) finds that the ASCMP is adhering to its approved coastal management program; implementing and enforcing the ASCMP in a satisfactory manner; and adhering to the programmatic terms of the NOAA financial assistance awards. The Territory continues to address national coastal management needs identified in CZMA Section 303 (2) (A) through (K). The previous evaluation of American Samoa's performance in implementing the ASCMP resulted in 14 recommendations, 8 of which were Necessary Actions and 7 of which were program suggestions. The Territory met, or is meeting these recommendations. (See Appendix D for a discussion of each finding, recommendation, and response, and for reference to the response within this document where appropriate.)

### A) Consistency.

Under the Federal consistency provisions of the Coastal Zone Management Act of 1972, as amended, all federally licensed or permitted activities affecting the coastal zone must be conducted in a manner consistent with the state's (Territories') approved management program (subsection 307 (c)(3)(A)). The ASCMP was approved in 1980 (EO 3-80, and amended 12-88) and enacted under statute in 1990. Consequently, any Federal agency carrying out any activity or any applicant for a Federal permit is required to produce a certification that the proposed activity will comply with the territory's coastal management program. No U.S. Army Corps of Engineers (COE) or other Federal permits are issued until ASCMP has issued a concurrence with the Federal Consistency Determination. Additionally, all Federally funded or Federally assisted projects or activities are subject to ASCMP Federal consistency determination.

To support the Consistency process ASCMP has produced the *Procedures Guide for Achieving Federal Consistency With the American Samoa Coastal Management Program*. The guide was designed to assist agencies and individuals to determine whether their proposed actions are subject to Federal consistency review and establish guidelines for applying for Federal consistency review. Federal agencies interviewed during the site visit noted that they had seen few determinations. The U.S. Fish and Wildlife Service (F&W) noted that "federal consistency currently is a mystery to the F&W." They don't know if it is because there are none, or that they are no longer on the "list." The consistency determinations that the program should be making, particularly because of the heavy use of federal funds, seem to be being made. They were involved with the harbor clean up activities and were active participants - the process seemed to have worked well there. However, F&W has seen no Federal Consistency correspondence and

have seen no advertisements of consistency determinations recently.

Likewise, the Federal Emergency Management Agency (FEMA) noted that when they needed to use Federal consistency the process worked well. However, currently they are not noticed of any potential action. When they become aware of things that they need to comment on they go through an informal approach. No formal notice is provided to them that they are aware of. Both F&W and FEMA noted that part of the problem may lie in their lack of involvement with the ASCMP on their own part. Both agencies noted that there were problems elsewhere that demanded their attention so that American Samoa, where “things are going well,” does not command much of their attention.

## **PROGRAM SUGGESTION**

**1) ASCMP should review its Federal consistency notice process to Federal agencies, make sure that all appropriate agencies addresses are correct, and ensure that appropriate agencies are provided opportunity to comment on proposed actions and are notified of Federal consistency determinations.**

### **B) Opportunities Working with Other Agencies.**

As a witness to the maturity of the ASCMP, many agencies, both Federal and Territorial spoke of expanded opportunities for closer coordination and cooperation. Indeed, the accomplishments cited in the preceding section attest to the positive results attained through cooperative associations with other groups. While some of the ideas proffered may take years of groundwork before reaching fruition, such as the development of an American Samoa Endangered Species Act, others, such as support for cultural surveys for low cost projects, may be more readily addressed. Some of the ideas for closer cooperative efforts are discussed below.

Upon learning of the recruitment of the jointly funded Assistant Attorney General (AG) and the recruitment of another Assistant AG within DOC to support ASCMP, the F&W indicated that the timing is such that ASCMP should explore with the American Samoa Department of Marine and Wildlife Resources (DMWR), and possibly draft, an Endangered Species Act for American Samoa. Having such an act would provide the opportunity for receipt of funds under Section 6 of the Federal Endangered Species Act. According to F&W, because of the cultural approach to land use, a lot of “good habitat remains” throughout American Samoa; habitat which does not exist on other Pacific islands. A strong law built upon the traditional values of land use and protection could serve to preserve this habitat from increasing developmental pressures. There are no listed endangered species for American Samoa (beyond the turtles and whales). F&W is willing to commit resources to this effort. They recognize that it would not be an overnight occurrence and that development of such a law would require face to face interaction and support and would have to be worked out over time.

Another opportunity which could involve ASCMP support for F&W, with the Coast Guard and U.S. Department of Commerce, and the DMWR, is the monitoring and protection of Rose Atoll. Rose Atoll was designated a National Wildlife Refuge in 1974 “for the conservation, management, and protection of its unique and valuable fish and wildlife resources.” The refuge is jointly administered by the U.S. Fish and Wildlife Service and the DMWR. The area from the Atoll to three miles out is managed by F&W and the U.S. Department of Commerce. For F&W, the Atoll is managed from Hawaii and is visited two to three times a year. Any research is opportunistic and very limited. They do track bird life so that type of monitoring occurs rather than research.

In October 1993, the Taiwanese longliner *Jin Shiang Fa* ran aground at Rose Atoll spilling 100,000 gallons of diesel fuel and other contaminants onto the reef. Prior to the grounding the Atoll was considered to be one of the most remote and pristine coral reefs in the world. Because of its isolation, the Atoll has been largely protected from human activities. To remedy this impact *The Impact of a Ship Grounding and Associated Fuel Spill at Rose Atoll National Wildlife Refuge, American Samoa* was prepared. The study is the first to demonstrate the serious, long term effects of diesel fuel on an oceanic coral reef ecosystem. Recommendations for the future management of Rose Atoll NWR include: removing the wreckage to facilitate reef recovery by natural processes; and continuing to monitor the Atoll to determine if it will recover from the event. As the Atoll recovered, it became the victim of another threat: poaching. The area outside the atoll has shown evidence of bottom fishing while there is clear evidence of clam removal within the atoll; there are middens of large clam shells where the clam has been removed and the shell discarded.

The opportunity is two-fold. For the ASCMP, an education and outreach program directed toward the significance of the resource could be developed (which could include some F&W funding) which relates to the Atoll but which also relates to resource protection needs in general as they link to the values of traditional morals and societal dictates. Rose Atoll can also become an educational “value” in its own right. F&W has developed a display about the Atoll, but working with ASCMP, more viable educational materials and projects may be developed that have meaning beyond the Atoll itself. The second opportunity lies in the development of a test of the resources available (satellite telemetry, communications, joint review and reaction/action processes) to create a model surveillance and enforcement system to protect the Atoll’s resources. As a test scenario, the identification of cost, the definition of process, and the identification of relevant actors could form the benchmark for other like surveillance and reaction/protection programs in other sensitive resource areas.

An opportunity with the American Samoa Historic Preservation Office (HPO) lies in the seeming disconnect between the PNRS and the requirements at 16 U.S.C. Section 470 of the Historic Preservation Act, Section 106 (16 U.S.C. 470f). The PNRS requires that projects over \$200,000 have cultural surveys, those of lesser cost do not. In certain cases, lesser permitted activities occur on sites which have cultural values requiring a survey, mitigation plan, and, in the case of excavation, a retention plan for cultural artifacts. The Act would require that an

archaeologist conduct such a survey and submit it to the HPO for review. This does not now occur. Absent the recruitment of an archaeologist for the ASCMP, there are some opportunities to respond to the Federal requirements and carry out other coastal initiatives. Working with the American Samoa Community College, which is developing a cultural program which would include an archaeologist who would need sites for field work, an opportunity might exist to provide the research necessary to fulfill the archaeological review requirements. Likewise the Department of Commerce already employs an archaeologist who conducts surveys on federally supported housing developments. This person could be entreated to assist. The National Park Service also has archaeologists who may also support the activity. Again the ASCMP is in a position to coordinate these resources to achieve multiple agencies goals.

FEMA noted that American Samoa may not have finished its Flood Mitigation Plan or have a current (or good) emergency management plan. According to the American Samoa Power Authority (ASPA) there is no disaster management plan. Further, according to ASPA, the American Samoa Territorial Emergency Management Coordinating Office (TEMCO), “has no idea how to do this.” TEMCO failed to meet with the site visit team, therefore, only indirect inference on this matter is available. However, no one else among those who would need to be aware of such a plan could produce it. It is ASPA’s contention that “if it is to be done, ASCMP will have to do it.”

## **PROGRAM SUGGESTION**

**2) ASCMP is encouraged to continue to seek opportunities to work with Federal and Territorial agencies toward mutual benefit in the protection of American Samoa’s resources. Clearly a “good faith” effort is warranted to coordinate a more stringent mechanism to protect cultural resources.**

### **C) Legal Issues.**

The Governor has gone on record stating that “no one is above the law.” This has been the guiding principal of the ASCMP in the exercise of its monitoring and enforcement. It is the Federal expectation, shared by the ASCMP and backed by the Governor’s statement, that when the recommendation is made to litigate, the issue will be litigated. The selection of a new environmental Assistant AG and the recruitment of another for the ASCMP should go a long way in addressing the issue of litigation. However, some issues remain. These include the effectiveness of the Stop Work Order as a deterrent, the question of whether ASCMP can, or can not issue a citation with a fine, and the administrative law rules which allow for “de novo” review of petitions.

More than one person noted that “the stop order really has no bite” and that people continue to build. Likewise other mechanisms are not a deterrent. It is as if people would rather

pay the \$100 fine for an after the fact permit than get a permit in the first place. In the past year a little over 40 stop work orders were issued with very mixed results and some success. In one case a fill activity went to court and the order was given to remove the fill. In another there was voluntary compliance. However the norm is that some cases get lost in the backlog and some will take years to get to court if they go at all, and the resource is damaged or lost over time. One mechanism to obtain compliance may be to advertise the issuance of the stop work order. This has been done with some effect and some could not believe that their name was in the paper associated with a “wrong-doing.”

Associated with the stop work order is the inability to issue a citation and fine. There is a discrepancy of how to interpret the statute such that one might be able to make the case for citations. The previous Environmental Attorney hesitated to pursue this in District Court despite an opinion to the effect that citations should be tested in court. Other agencies who do have the ability to issue citations and fines do not, seeing their review and comment on permits as not an implementation of their law and thus, not a proper use of their legal recourse. The Program should explore making the changes necessary to be able to issue citations and fines.

Another vehicle for compliance is the recent creation of the Administrative Law Judge to review, on appeal, the decisions of the PNRS Board. Established in statute with subsequently promulgated administrative rules, the Administrative Law Judge must review each case “de novo” (from the start or all records of the case) and not just whether the action was arbitrary or capricious. Right now, if one is before the Administrative Law Judge you would be acting as if you were in court, with filings, adjudicative relief statements and the like; essentially allowing for new and additional information to be entered. The review is not limited to the record of the agency. At present there is nothing before the Administrative Law Judge, but ASCMP has three cases on their way.

## **PROGRAM SUGGESTION**

**3) The ASCMP should work to address legal issues as they evolve. A mechanism should be explored to allow ASCMP to cite and fine violators of permit conditions and those building without a permit. It would be preferable if the Administrative Law Judge review of cases did not have to be a “de novo” review. In any event a resolution to the “de novo” requirement for cases reviewed by the Administrative Law Judge should occur.**

## **D) Management and Enforcement.**

Although there are clear accomplishments in the management and enforcement of the ASCMP and in the operation of the PNRS, the need to enforce a body of laws and regulatory processes is an ongoing necessity that requires adequate staff trained to implement the Program.



A number of options were discussed during the site visit; these include: completion of the enforcement manual as a “user friendly document,” increased training and certification of enforcement officers, additional staff, and litigation. It is important to understand the Samoan Culture (Fa’aSamoa) and the complex issues associated with the enforcement of ASCMP/PNRS rules. Even today the people of American Samoa resent having to obtain approval through the Land Use Permitting process to do what they deem as their God given right to their lands. With this in mind, ASCMP has treaded lightly and with caution to ensure that they were sensitive to the inherent cultural issue.

As noted elsewhere in this document, litigation should become less of an issue with the active support of the environmental Assistant AG and the recruitment of an Assistant AG for ASCMP. Likewise, resolution of the several legal issues discussed above should provide further support to enforcement. The issue then becomes one of bolstering the actual enforcement and supporting those who carry out enforcement of the ASCMP. Another part is the use of the management tools available, such as compensatory mitigation, restoration and mediation, to assure that the intent of the program is carried out.

Training of the Enforcement Officers is cited as an accomplishment of program implementation. However, the program is not necessarily institutionalized and ongoing. Upon completion there is no certificate to document that the participant has accomplished a unique set of training requirements to become an enforcement officer. Likewise, a program of ongoing training and education could be developed to further the abilities and enhance the credibility of the officers as they carry out their duties. Early in this review period, the AG noted that cases were not litigated because the enforcement officers did not document the violation in such a way that would allow the case to go to court. Training was immediately pursued, and the documentation needed for ASCMP violations is now developed. The problem arises in the documentation of the violation of a condition of another agency, were unique tests, protections and documentary protocols may differ. To its credit, ASCMP is looking for other sources of training and recognize the need to understand the chain of evidence and needs of documentation. One idea was to bring the regulatory agencies together to jointly present and discuss their relative regulatory burdens, the requirements they have to meet, the proof they have to develop, and the problems they jointly share.

One significant help in this regard would be completion of the Enforcement Manual. The enforcement manual has not been finalized. Review of the draft manual indicates that it does not look like a review manual, but a re-articulation of the existing law or a condensed version of the code. What should be developed is not a restatement of the law and regulation, but a user friendly document that guides the user through intricacies, facilitating the conduct of the job. Other “user friendly” documents should be developed to assist in the work place. Another help would be to have enforcement personnel in sufficient numbers that workloads do not become over burdened. Filling existing vacancies and considering the employment of additional personnel should be a consideration.

Likewise, there are management considerations which could be brought in to play to address this set of issues. It was clear from discussions with other agencies that, while they may be a party to an inspection, it is their expectation that ASCMP would carry out the enforcement (issuance of a Stop Work Order). It might be timely to consider the combination of all enforcement under one authority or enforcing group. Another consideration would be to move to a consolidated permit for all actions so that as agencies clear a permit with their conditions, the same document would be used by the other agencies. This would help with the problem of the failure of a contractor to pass on to sub-contracts the permit conditions germane to the subcontract. For instance, in the development of new roads, Public Works will apply for a permit to construct and receive the permit with conditions. This may occur before selection or after selection. The contractor will subcontract elements of the work but will not identify the relevant permit conditions that relate to the subcontractors work. At a minimum, an Enforcement Coordinator position responsible for the documentation of all permits and conditions should be created.

Other management options should also come in to play. The Territory offers compensatory mitigation however this is not a common practice, although a contractor did plant stream bed vegetation in a restoration compensation case. In some cases there has been a fee in lieu of mitigation. Likewise, mediation of a dispute before the PNRS Board could be used. This vehicle is available but to date has not been used. Another route worth exploring is the possibility of setting up some formal mediation protocols or mechanisms with an uninvolved “amicable” office.

## **PROGRAM SUGGESTION**

**4) The ASCMP should take steps to institutionalize the training program for code enforcement officers that leads toward some form of certification. Working with other agencies, ASCMP should address mutual issues of enforcement such as the development of documentary evidence, shared enforcement roles and joint permitting. The Enforcement Manual should be completed and “user friendly” documents, such as a step-by-step account of the process and what must be done, documents developed. ASCMP should also proceed with all its management options, such as compensatory mitigation, fee in lieu, and mediation to assure resource protection.**

### **E) Budget.**

The American Samoa Department of Treasury does not have a Federal Award accounting system that is sufficient to ensure on-time payment of vendors. In the past, ASCMP Award funds have been used to pay vendors of other government agencies, without the necessary repayment of

the ASCMP funds to either the ASCMP account nor ASCMP vendors. This meant that consultants on Federal Award tasks were not paid, final products were not delivered, and tasks and projects were delayed. Also, vendors were refusing to conduct business with ASCMP for fear of not being paid. This was not unique to the ASCMP, other Territorial and Federal agencies suffered similar problems, unable to use vouchers or purchase orders throughout the island. According to F&W, money they provided sometimes went unspent and was returned to the Federal government. The opportunity to support the resource protection for which the funds were intended was lost. In another instance, FEMA was at the point of taking \$10 million in disaster recovery funds back before an accommodation with ASG was developed.

Rather than place the program on a reimbursement schedule, placing the program in an unfavorable financial status, for a problem largely out of its control, the funds reside with a “hold” on the account at NOAA Finance and/or Grants Management Division. Once each month, ASCMP submits copies of invoices to be approved by CPD and a “draw-down” for the total amount is authorized. The AS Treasury draws down the funds, checks are cut, and an inventory of checks is sent to CPD as proof of vendor payment.

This is administratively taxing for CPD, but vendors are being paid on time and the un-reconciled accounts have been brought up to speed. AS Government is in the process of developing a more comprehensive, organized grants management system, but until ASCMP is confident that their vendors will be paid, the status quo should be maintained. As a first step, the Territory has separated its funding to grant funds and local funds with grant funds tied to the requirements of the grant. ASCMP has recently hired a new statistical assistant who is very responsible, but has yet to receive training from NOAA Grants Management

## **PROGRAM SUGGESTION**

**5) Until there is confidence in the Territorial accounting system the current “draw-down” of funding should be maintained. Every effort should be made to provide NOAA Grants Management training to ASCMP and Treasury staff to continually update them on grant and financial management issues.**

### **F) Salaries.**

Due to American Samoa civil service structure, the group of employees who perform monitoring and enforcement of ASCMP regulations are severely underpaid. Salaries are in the range of \$9,000 to \$11,000 per year. As such, the ability to hire and retain qualified staff is a major problem. Under government civil service one is hired to a category and remains there. The issue with human resources is to pay across the board, not to different levels in different departments. Discussion of the possibility of placing several key positions as Federal employees indicated that such an action may require a complete restructure of the program management.

This issue is very important to ASCMP and OCRM is trying to be as flexible as possible. A number of alternatives and mechanisms are actively being investigated by ASCMP and OCRM

## **PROGRAM SUGGESTION**

**6) OCRM will work with ASCMP and the Governor's Office to seek viable solutions to the salary issue.**

### **G) Flood Insurance Program.**

ASCMP will be facing several issues in the near future regarding the flood insurance program. To its credit it has positioned itself as well as possible to work on the issues by assigning an individual full time, but other resources will have to come in to play. The issue is multi-faceted. First, the concept of insurance is contrary to the traditional way of dealing with property issues. Second, the existing way of doing business, the flood insurance maps, are about to change. Third, the policies and personnel to deal adequately with the new requirements are not in place and training is needed. Finally cooperation among Territorial agencies (namely ASCMP, DPW and TEMCO) will be absolutely necessary.

Flood insurance is a new concept to American Samoa. Prior to involvement under executive order, insurance was a family, community affair. You pay in when young and take out when needed. The concept of the individual going outside the family is just not thought of. Also there is the idea that housing is such that it is not as costly as found elsewhere. Significant vestiges of the traditional way remain - although this is changing as people go off-island and experience what is occurring elsewhere and come back with a new understanding. Thus, any effort to have substantial buy-in to the National Flood Insurance Program (NFIP) will require a substantial public education campaign. This is even more important because, as a result of recent legislation, with the next disaster "to get Federal assistance you must have flood insurance." More education should take place before the next disaster and FEMA has the outreach materials that can be used.

Another layer of the problem is that the building code that is incorporated into the law is old (1965) and may not be enforced as vigorously as one would like. The new building code, although not mandated, is currently being used. In the event of damage, restoration may occur to 50% of the structure. Once the 50% damage is reached restoration must be to new standards (to mean new elevations). There will be the need to document structures at the new standards. The technical work and enforcement must be done by the building inspectors who appear to have limited knowledge about the requirements and purpose of NFIP. Another problem may well be FEMA - which, by their own admission, does not give American Samoa the thought and attention that it needs. The FEMA office handling the program is out of San Francisco and American Samoa is a long distance from San Francisco, Marin County is not.

The Corps is in the process of completing the Flood Insurance Study to define hurricane flood impact limits. Prior to the 90 and 91 events the focus was on tsunami events and flood impacts were driven by potential tsunami inundation. Using the Waterways Experiment Station (WES) predictive methodology, flood limits are being defined for American Samoa. The data used was the FEMA definition of flooding limits from both storms. While the methodology uses significant wave height and storm surge, it was determined that it was not fully adequate for insular events. In part because of the effect of off-shore reefs and in part due to the way water is shed by an island, where temporary ponding of runoff becomes an issue. Because of this, and some early data discrepancies, the original elevations are being revised. The new elevations will now come to the Corps in September 2000, be reviewed and passed to the contractor, who will provide the draft maps for a 90 day comment and appeal period (it is anticipated that there will be some form of appeal because there may be some significant changes to the flood zone - flood elevations will probably be 4 to 6 feet higher than on previous maps and every building within the foot print will either have to be elevated at some point, or not rebuilt as the result of an event - this is a big change.). After the 90 day period, it will be six months until the final plans are produced. This process takes us to the end of next year or the beginning of 2002.

## **PROGRAM SUGGESTION**

**7) ASCMP should work to develop a coordinated approach to implementing the flood insurance program. First, with the support of the Governor's Office, ASCMP should communicate the need for American Samoa's participation in the National Flood Insurance Program (NFIP) to the other Territorial agencies and organizations responsible for implementation (department of Public Works, the Territorial Emergency Management Coordinating Office, and lenders). Second, an interagency NFIP implementation group should be established. Third, ASCMP should work closely with the Federal Emergency Management Agency to identify and secure sources of technical and financial assistance. OCRM will work with Federal agencies to enhance Federal/ASCMP coordination. Finally, monitoring, enforcement, and outreach programs for the NFIP should be developed and implemented.**

## **H) Training.**

Training has been mentioned throughout this document, both as an accomplishment of program implementation, within the discussion of findings, and in reference in recommendations. Clearly it is one of the important opportunities facing the ASCMP over the next three years. Loss of funding to the University of Hawaii (UH) program, which used the funding to support the program, is significant. As ASCMP works with UH to maintain the same program, it should also look to other mechanisms for training and staff development. The American Samoa Community College (ASCC) may become a new venue for training programs, and ASCC and UH may find that a mutuality of interests in this regard would benefit each institution. New technologies, such

as tele-conferencing, should also be considered. Other opportunities to explore include the possibility of conducting a training exchange with MAREPAC members or developing a program in conjunction with the Coastal Service Center for training of staff.

## **PROGRAM SUGGESTION**

**8) At a minimum ASCMP should develop a proposal with UH that outlines training services and associated costs and submit it to the Marine Resources Pacific Consortium for funding consideration. The ASCMP should also take steps to institutionalize the training program for permit enforcement officers that lead toward some form of official certification. Further ASCMP is encouraged to work with UH to identify and develop additional training opportunities.**

### **I) Computers and Internet Access.**

ASCMP has only one internet access address for the program. They do have intra-net but the access need is not internal as much as it is communicating outside of American Samoa. While the hardware on hand has the sophistication to carry out GIS activities, the lack of communication may prove problematic in the future. While it is recognized that the provision of internet access is a managerial prerogative, and may not be extended to all. It is noted that recent studies indicate that the dollar value per employee of increased productivity generated annually through E-mail usage is \$13,000 and the estimated number of hours that an employee saves each year by using E-mail is 326. At a minimum an assessment of need and benefits derived from staff having access should be carried out. With the future of grant management directed toward use of the internet for application, creating unfunded actions, and providing performance reports, more than one access port will more than likely be necessary.

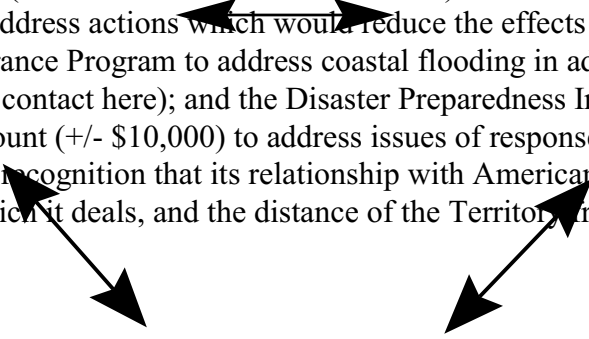
### **J) Work with Federal Agencies.**

While American Samoa enjoys a close working relationship with those Federal agencies represented on the Islands, or traveling often to the Territory, its relationship with several others is limited. This is through no fault of its own, but is an issue that should be considered.

F&W has not worked closely with ASCMP, primarily because the issues have been with Guam and the Northern Marianas. With CNMI they have a "good" relationship though there remain issues with the protected areas. On Rota the Mayor had crow habitat leveled for "eco-tourism" development. He evidently thinks there is a burgeoning market among the Japanese for eco-tourism. On Guam the BRAC closures are driving decisionmaking. This is creating some response problems. They did not know the new program manager. The bottom line is that they

have been focused elsewhere and have just not had much reason to deal with ASCMP. The F&W person that had the responsibility left several years ago and no one filled the void. That there is no close working relationship with ASCMP is not the fault of the program but is the F&W fault to focus on American Samoa issues (beyond Rose Atoll).

There are several FEMA programs which have affect on American Samoa. The Hazard Mitigation Grant Program (which takes effect after a disaster) and is a 15% add-on to the amount provided for recovery to address actions which would reduce the effects of a future natural hazard; the National Federal Insurance Program to address coastal flooding in advance and to ameliorate its effects (ASCMP is the contact here); and the Disaster Preparedness Improvement Grant which could provide a small amount (+/- \$10,000) to address issues of response and recovery. Like F&W, FEMA accepts the recognition that its relationship with American Samoa could be better, but the the issues with which it deals, and the distance of the Territory from its offices dictate that it look elsewhere.



#### **K) General Land Use Plan.**

Actual planning and zoning needs improvement from the ground up and has been the focus of programmatic activity over the past three years. Since no planning or zoning process exists at this point all of this is new ground. Currently land use decisions are driven by what could be called the triumvirate of the Planning Commission, the Zoning Board and the PNRS.

**Planning Commission**  
(Responsible for the development  
of Plans, Public Hearing on Plan and  
Recommendation of Zoning Code)

**Zoning Board**  
(To administer the Zoning Code and  
hear variances, usual responsibilities)

**PNRS**  
(Maintain Development Standards - No change)

Within this context the Planning Commission has the responsibility for plan development process and recommends appropriate zoning code elements. The Zoning Board administers the Zoning Code and its processes. Development standards are maintained through the PNRS. For the system to work all three elements must work together to assure that the interest of the people,

as articulated through the planning process (Planning Board), is maintained by administration of the Zoning Code and the maintenance of development standards. With the development of a plan and as the Planning Board goes public with the plan and proposed ordinances, careful consideration to the internal operating procedures must be made. Hopefully the result will be easy to understand and administer with a limited number of zoning categories. Implementation of the Tualauta County Master Plan, and working with the Planning Commission and Zoning Board will be a first step in embracing the relevant issues of a General Land Use Plan.



## VI. CONCLUSION

Based on OCRM's review of the federally approved American Samoa Coastal Management Program and the criteria at 15 CFR 928.5(a)(3), I find that American Samoa is adhering to its federally approved coastal management program. Further advances in coastal management implementation will occur as the Territory addresses the program suggestions contained herein.

These evaluation findings contain eight (8) recommendations which are program suggestions that the Territory should address before the next regularly scheduled program evaluation and which are not mandatory at this time. Program suggestions that OCRM must repeat in subsequent evaluations, however, may be elevated to necessary actions (which must be acted upon within specific time frames or financial assistance may be jeopardized).

This is a programmatic evaluation of the ASCMP that may have implications regarding the Territory's financial assistance award(s). However, it does not make any judgements on, or replace any financial audit(s) related to, the allocability of any costs incurred.

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Date

Jeffrey R. Benoit, Director

**American Samoa Coastal Management Program  
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**PERSONS CONTACTED DURING THE EVALUATION**

Tauese Sunia	Governor
Togiola Tulafono	Lt. Governor

**American Samoa Department of Commerce**

Ali'imau H. Scanlan, Jr.,	Director
Lelei Peau,	Deputy Director
Gene Brighthouse,	Program Manager
Apelu Aitaoto	Community Liaison

**Permit, Enforcement and Monitoring Section**

Lance Tauoa  
Misipati Salanoa  
Fa'alae Tunupopo  
Lia'i Tauanu'u  
Aulava Jerry Sauni

**Wetland Program**

Bronwyn "Bua" Mitchell  
Peni Siatunu'u  
Non-point Source Pollution  
Mary Hogan  
Joshua Craig

**Public Awareness Program**

Alice Malepeai  
Daniel Fiu

**Planning Section**

Rod Henning  
Charles Seitz

**Financial Division**

Mindy Afalava

**Historic Preservation Office**

David Herdrich

**Department of Treasury**

Sue Tavake	Acting Financial Manager
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American Samoa Environmental Protection Agency  
Topiga Tausaga  
Joshua Craig

American Samoa Department of Education  
Sili Sataua  
Netini Sene

American Samoa Attorney General's Office  
Martin McCarthy

American Samoa Territorial Emergency Management Coordinating Office  
Fa'amuasili Pola, Manager  
Alefa Afalava, DOC Coordinator

American Samoa Power Authority  
Mike Dworsky

American Samoa Department of Marine and Wildlife Resources  
Ray Tulafono  
Flynn Curren  
Marie Claude Filteau

Coral Resources Advisory Group  
Lelei Peau                      DOC, Chairman  
Peter Craig                    National Park of American Samoa  
Flynn Curren                  DMWR  
Chris Evans                   DMWR  
Sheila Weigman              ASEPA  
Jennifer Aicher               ASCC  
Nancy Daschbach            DOC, Fagateli Bay National Marine Sanctuary  
Gene Brighthouse            DOC/ASCMP

Federal Agencies (In order of encounter.)  
Michael Molina               U.S. Fish and Wildlife Service  
Don Pawlinski                U.S. Fish and Wildlife Service  
Wendy Wiltsey               U.S. Environmental Protection Agency  
David Kennard               Federal Emergency Management Agency  
Steve Yamamoto              U.S. Army Corps of Engineers  
Nancy Daschbach            National Ocean Service  
Peter Craig                    National Park Service

Others

Peter Rappa

University of Hawaii

Steve Olive

Hawaii Coastal Management Program Manager

Jeff Walters

Mike Hamnet

Pacific Basin Development Commission

\_\_\_\_\_ **American Samoa Coastal Management Program  
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\_\_\_\_\_ **PERSONS ATTENDING THE PUBLIC MEETING\***

The Public Meeting was held on Tuesday, July 25, 2000 at 5:00 PM in the Rainmaker Hotel in Pago Pago.

Attendees: James L. McGuire

The meeting was called to order at 5:00 pm. The meeting was concluded at 6:30 p.m..

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**American Samoa Coastal Management Program  
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**WRITTEN COMMENT RECEIVED AND RESPONSE**

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The following submitted written comments regarding the evaluation of the American Samoa Coastal Management Program:

E-Mail from James L. McGuire (appended as Appendix C-1) requesting a list of team participants and their respective expertise and identifying an issue related to the execution of a Land Use Permit before a zoning variance has been granted on land zoned watershed conservation. Though Mr. McGuire requests that the issue be addressed before arriving in American Samoa and a position established, the message did not contain the information needed upon which to predicate a position. However, communication prior to the site visit, which included a list of team participants, indicated that his issue would be carefully considered during the visit. Mr. McGuire offered to take the team on a tour during the visit but time did not permit. However, the team did meet with Mr. McGuire at the public meeting during the visit and the issue was discussed.

E-Mail from James L. McGuire (appended as Appendix C-2) discussing his view of American Samoa's political reality, the lack of responsiveness of public officials, and suggesting that in future evaluations, the public be provided with an E-mail address where comments on performance may be directed. The first issue merits no response. Regarding the responsiveness issue, the matter was discussed with both Mr. McGuire and ASCMP employees identified as non-responsive. After weighing the all of the information and both sides of the issue, the evaluation team can find no fault with ASCMP employees. To the contrary, they went well beyond what would be expected in responding to the issue, though the response was not a letter sent to Mr. McGuire. Mr. McGuire's third point is a valid one and it will be suggested that this become the policy of OCRM when conducting an evaluation under the provision that all E-mail correspondence is official and will be shared with the program being evaluated.

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Dear Mr. McLeod

This message is to confirm your visit on July 21st for a week. We understand you will be coming with a small group. Since we are now in the digital age now, we would appreciate you emailing back who is coming to Pago with you and what area of expertise each person brings with them. What has been the case in the past is that Federal people come down to Samoa seeking public input, hold a public hearing and then leave with no follow up for another year. We would appreciate not having that happen on this trip.

So, in advance, we would like your group to look into and research why a locally hired federally funded employee of the CZM program should have the power to issue Land Use Permits, (which then allows the applicant to get a building permit) before a zoning variance has run due process through the Courts. Case in point, if a neighbor, who's land is zoned watershed conservation wants the local government to issue him a "variance", so he can build a warehouse or garment factory next to my house why should your CZM funded employee have the power to sign a paper for him to start building before the objection to the variance has run through the Court system here.? Why should I have to put up a Bond in the value of the building before an injunction will be issued by the Court? Are not your federal laws to protect the constitutional rights of all citizens, not just a few?

I would like this problem addressed by your group before you arrive on island, with some type of email response so we know your position when you arrive. I already know your local CZM office position. Its a local problem and a local law (which I have read), gives the local CZM people the power to sign land use permits. I disagree. No land use permit should be issued until after due process has run its course, which includes due process under the U.S. Constitution and the Territorial Constitution. We would like to take you on a tour while you are on island to show you what we mean.

Respectfully James L. McGuire

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Dear Mr. McLeod

It is 8pm on Friday night, July 28th, only 2 days after you jumped on a plane and left our lovely island. We hope you enjoyed your site visits while here. Sorry we were not able to show you a few of our own. The three main points I was trying to make at the public "meeting" Tuesday night July 25th at the Tapa Room?! were as follows:

1) the Governor of American Samoa is King (see section 7 of the Revised Constitution of American Samoa) "the Governor shall have general supervision and control of all executive departments, agencies and instrumentality's of the government of American Samoa". (see also section 11 of the same document), "With the exception of elective officials, those appointed by the Secretary of the Interior, and those whose appointments are otherwise provided for, the officials of the Government of American Samoa including district, county, and village officials shall be appointed by the Governor" The zoning board is made up of 9 members. Four are appointed directly by the Governor and the 3 District Governors, (who the Governor appoints), each put one person on the zoning board. So, that just leaves the Senates appointment and the Speaker of the House appointment that are not directly influenced by the Governor. Since the Governor also appoints all Directors (JR..), and the Directors hire all the staff below them, it is one little tight package. This Kingdom style of Government has been going on, not since Margaret Mead came to Samoa, but only since 1977 when "we the people" started electing our own Governor. Prior to that, the gentleman from Interior appointed the Governor.

This leads to the second point I was trying to make Tuesday. Since the Governor of Samoa is King for four years their noblemen, (the Directors), do not feel they need to be accountable to us peasants (US Citizens) so therefore never bother to answer any written correspondence. (Lance is by far, not the only DOC staff member over the years that feels correspondence can just go unanswered.) I can easily prove this statement. In otherwords ASG Government staff could care less what the publics comments really are.(One member from the entire population of the island attended your, "public meeting") Case in point. The public fears the King and his power.(ever since 1978) So why bother? This leads to the third point I was trying to make Tuesday night.

3) When a federal government meeting is required to meet public policy save us all the trouble of driving to the Shamemaker Hotel. Put the website in the newspaper with email addresses of the people you would like us to respond to, that way we can keep our public



comments confidential if we want. Final budget for CZM FY 1999 \$944,000 of which over half is for 22 salaries. do we need this? Send more local kids to Camp Tifi Tifi every summer(our winter).

In closing, do you understand now why we still have no island wide zoning plan and why CZM staff sign off on land use permits when issued variances are being contested in our Courts?

Your comments on statements made here would be appreciated ASAP so we can send you supporting Facts to support comments made before the August 5th deadline.

A very concerned citizen

James L. McGuire

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**RESPONSE TO PREVIOUS FINDINGS**

**1) Necessary Action:** The DOC/ASCMP must make every effort to retain skill levels and salaries of ASCMP job descriptions and to ensure timely filling of vacant positions to maintain the high quality of effort concerning the PNRS implementation, monitoring and enforcement. Efforts must be documented in all performance reports following receipt of final findings.

**Response:** This was done. The Training program is highlighted in the Accomplishments section of these findings. While it did take time to fill positions, the ASCMP worked diligently to replace personnel lost.

**2) Program Suggestion:** DOC/ASCMP is encouraged to ensure adequate training for existing and new staff in the areas of planning and grants management, particularly grant task tracking and the completion of financial and performance reports.

**Response:** This was done, see above..

**3) Program Suggestion:** DOC/ASCMP is encouraged to purchase a new vehicle in order to improve its program implementation in the areas of site visits, monitoring and enforcement, and special projects activities.

**Response:** This was done.

**4) Necessary Action:** The ASCMP needs to complete a number of legal documents which provide the foundation of the PRNS: A) The PRNS administrative rules must be revised, adopted, and submitted to OCRM by December 31, 1997; and B) The ASCMP monitoring and enforcement manual must be completed and submitted to OCRM in draft by March 31, 1998, and in final by December 31, 1998. The manual must include detailed agreements between DOC and the Attorney General's Office on procedures necessary to ensure enforcement of violations.

**Response:** The enforcement manual is still under development. However, issues regarding the Attorney General's office appear to have been resolved. PRNS administrative rules were

adopted..

**5) Program Suggestion:** The ASCMP is encouraged to work with the Attorney General's Office to consider adopting an administrative fine system and develop procedures whereby the ASCMP environmental attorney could assist more fully in the litigation process, thereby decreasing the time necessary to complete the litigation process.

**Response:** This remains an issue.

**6) Necessary Action:** DOC and the ASCMP must improve network agency coordination in the PRNS. For example, the ASCMP must work with each agency to obtain key personnel contacts for site visits, as well as improve communication with the agencies to ensure timely submission of site visit reports and written permit conditions. Specific actions taken must be documented in all performance reports following receipt of final findings.

**Response:** This was done and is reflected in the accomplishments of this document.

**7) Program Suggestion:** DOC/ ASCMP should work with the other agencies to resolve the interagency disagreements. As an example, ASCMP may want to consider developing memoranda of understanding with the other agencies that include processes for conflict resolution.

**Response:** This was done.

**8) Necessary Action:** The DOC/ASCMP must work to resolve administrative road blocks preventing completion of wetland restoration projects. This includes working with the Public Works Department to finalize the wetland delineation maps. They must also work with the Attorney General's Office to develop better procedures for enforcement of wetlands violations, including considering the development of an administrative fine system for minor violations.

**Response:** This was resolved..

**9) Program Suggestion:** DOC/ ASCMP is encouraged to complete the Tualauta County Master Plan. The master planning efforts should be expanded to include zoning concerns as part of the PNRS system. They should also develop mechanisms to incorporate local ordinances into permit decisions.

**Response:** This is in progress..

**10) Necessary Action:** DOC/ASCMP must improve their procedures and submit the required financial and performance reports and work products, as well as requests for non-cost extensions, where necessary, on time. In particular, separate performance reports must be submitted for separate financial assistance awards, and must include the correct agreement number. They must

also work with NOAA/CPD do develop more useful performance reports, including providing more specific details on project tasks.

**Response:** This was done.

**11) Program Suggestion:** ASCMP should work with the ASG Treasury Office to develop better procedures that allow for payment of expenses that are necessary to start the projects.

**Response:** This is being resolved and is the subject of a recommendation to these findings.

**12) Necessary Action:** DOC/ASCMP must work with Federal agencies with major funding programs affecting American Samoa, and their ASG counterparts to develop timely federal consistency review procedures for federal funding programs. Such reviews should include working with relevant ASG agencies to ensure that initial project designs are consistent with ASCMP policies prior to their submittal to the federal funding agency. OCRM will work with the ASCMP and the relevant Federal agencies to ensure federal agency and ASCMP compliance with the Federal Consistency regulations, 15 CFR Part 930. These procedures must be developed by December 31, 1998.

**Response:** This is not the issue.

**13) Necessary Action:** DOC/ASCMP must submit a description of its public participation process, consistent with NOAA's Policy Guidance on Public Participation (59 Federal Register 30339).

**Response:** This was done.

**14) Necessary Action:** The Territory must submit the required documentation to NOAA/OCRM for formal incorporation of their regulatory and programmatic changes into the approved American Samoa Coastal Management Program, including their revised Administrative Rules. The program changes must be submitted no later than December 31, 1997. DOC must also submit a draft updated program document by March 31, 1998 and a final document by December 31, 1998.

**Response:** This was done.

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**American Samoa Coastal Management Program  
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DOCUMENTS REVIEWED

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*Report of Workshop and Development of 5-Year Plan for Coral Reef Management in American Samoa.* American Samoa Coral Reef Advisory Group, Pago Pago, American Samoa. August 1999.

*Impacts of Rapid Population Growth in American Samoa: A Call for Action.* , May 2000.

*Procedures Guide for Achieving Federal Consistency With the American Samoa Coastal Management Program*

*The Impact of a Ship Grounding and Associated Fuel Spill at Rose Atoll National Wildlife Refuge, American Samoa.* U.S. Fish and Wildlife Service, Pacific Islands Ecoregion, Honolulu, Hawaii, September 1997.

**American Samoa Coastal Management Program  
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TABLE OF RECOMMENDATIONS

Evaluation Recommendations For: American Samoa  
Evaluation Findings Issued: (Date)

Number/Type of Recommendation		Recommendation Text	Required Date
Number	1	ASCMP should review its Federal consistency notice process to Federal agencies, make sure that all appropriate agencies addresses are correct, and ensure that appropriate agencies are provided opportunity to comment on proposed actions and are notified of Federal consistency determinations.	
Necessary Action			
Program Suggestion	X		
Number	2	ASCMP is encouraged to continue to seek opportunities to work with Federal and Territorial agencies toward mutual benefit in the protection of American Samoa's resources. Clearly a "good faith" effort is warranted to coordinate a more stringent mechanism to protect cultural resources.	
Necessary Action			
Program Suggestion	X		
Number	3	The ASCMP should work to address legal issues as they evolve. A mechanism should be explored to allow ASCMP to cite and fine violators of permit conditions and those building without a permit. It would be preferable if the Administrative Law Judge review of cases did not have to be a "de novo" review. In any event a resolution to the "de novo" requirement for cases reviewed by the Administrative Law Judge should occur.	
Necessary Action			
Program Suggestion	X		

Number	4	Working with other agencies, ASCMP should address mutual issues of enforcement such as the development of documentary evidence, shared enforcement roles and joint permitting. The Enforcement Manual should be completed and “user friendly” documents, such as a step-by-step account of the process and what must be done, documents developed. ASCMP should also proceed with all its management options, such as compensatory mitigation, fee in lieu, and mediation to assure resource protection.	
Necessary Action			
Program Suggestion	X		
Number	5	Until there is confidence in the Territorial accounting system the current “draw-down” of funding should be maintained. Every effort should be made to provide NOAA Grants Management training to ASCMP and Treasury staff to continually update them on grant and financial management issues.	
Necessary Action			
Program Suggestion	X		
Number	6	OCRM will work with ASCMP and the Governor’s Office to seek viable solutions to the salary issue.	
Necessary Action			
Program Suggestion			
Number	7	ASCMP should work to develop a coordinated approach to implementing the flood insurance program. First, with the support of the Governor’s Office, ASCMP should communicate the need for American Samoa’s participation in the National Flood Insurance Program (NFIP) to the other Territorial agencies and organizations responsible for implementation (department of Public Works, the Territorial Emergency Management Coordinating Office, and lenders). Second, an interagency NFIP implementation group should be established. Third, ASCMP should work closely with the Federal Emergency Management Agency to identify and secure sources of technical and financial assistance. OCRM will work with Federal agencies to enhance Federal/ASCMP coordination. Finally, monitoring, enforcement, and outreach programs for the NFIP should be developed and implemented.	
Necessary Action			
Program Suggestion	X		

Number	8	At a minimum ASCMP should develop a proposal with UH that outlines training services and associated costs and submit it to the Marine Resources Pacific Consortium for funding consideration. The ASCMP should also take steps to institutionalize the training program for permit enforcement officers that lead toward some form of official certification. Further ASCMP is encouraged to work with UH to identify and develop additional training opportunities.	
Necessary Action			
Program Suggestion	X		